

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

WILMER GARCIA RAMIREZ, et al.,

Plaintiffs,

v.

U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT (ICE), et al.,

Defendants.

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Case No. 1:18-cv-00508-RC

Class Action

**REPLY MEMORANDUM IN SUPPORT OF MOTION TO ENFORCE THE COURT’S  
JUNE 2, 2026 ORDER**

Defendants have not met their burden<sup>1</sup> to establish materially changed circumstances showing that Y.Z.P. and H.M.A. presented a danger or risk of flight such that their re-arrests and now months-long detention are justified. ECF 455 at 1. Defendants’ failure to do so violates this Court’s order, the permanent injunction, and 8 U.S.C. § 1232(c)(2)(B). ECF 456 at 1-4. As such, this Court should grant Plaintiffs’ motion and order the immediate release of both H.M.A. and Y.Z.P.

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<sup>1</sup> Defendants mistakenly suggest that Plaintiffs have not met “their burden to show release is warranted.” ECF 464 at 1. Plaintiffs’ role, however, under this Court’s orders, is to “raise with the Court any issues or concerns with respect to ICE’s compliance with . . . 8 U.S.C. § 1232(c)(2)(B).” Final Judg. and Perm. Inj. at 7, Sept. 21, 2021, ECF 368. They have done precisely that in the instant motion, and as such, this Court “may order the release of improperly confined age-outs.” ECF 456 at 25. This Court has previously held that it is Defendants who must “articulate[] a satisfactory explanation for [their] actions.” *Id.* at 15 (citation omitted).

## ARGUMENT

### H.M.A. Should be Ordered Released

Defendants reiterate that changed circumstances established that H.M.A. was a flight risk in December 2025, when ICE arrested him while he was attending his removal hearing in Immigration Court. ECF 464 at 3-4. They cite his prior, one-time failure to appear at an ICE check-in in October 2024, and his failure to provide a passport as required. *Id.* First, as other courts have held, attendance at one’s removal hearing is self-evidently indicia of a lack of flight risk. *See, e.g., Munoz Materano v. Arteta*, 804 F. Supp. 3d 395, 420 (S.D.N.Y. 2025) (citing fact that noncitizen “voluntarily presented himself at his immigration hearing” as demonstrative of lack of flight risk). Defendants’ statements to the contrary are puzzling. ECF 464 at 4. While noncitizens have an incentive to appear at immigration court, Immigration Judges—not ICE agents—are exclusively authorized to issue orders of removal to noncitizens such as H.M.A. *See* 8 U.S.C. § 1229a(a)(3). H.M.A.’s attendance at his removal hearing in Immigration Court after he missed one ICE check-in (and after he had attended multiple other ICE check-ins), thus demonstrates he is not a flight risk.

Second, while Defendants insist that H.M.A.’s failure to provide a passport to ICE is a “material change,” ECF 464 at 5, it is not obvious how a failure to have a foreign passport is tied to risk of flight. While Defendants argue it would be “essential should removal be ordered,” *id.*, at the time ICE was demanding H.M.A.’s removal, he had not been so ordered and was contesting his removal. Indeed, agency precedent has never held that not having a valid foreign passport is indicia of flight risk. *See, e.g., Matter of Guerra*, 24 I&N Dec. 37, 38 (BIA 2006) (discussing factors relevant to danger and flight risk with no mention of foreign passport); *Matter of R-A-V-P-*, 27 I&N Dec. 803, 806 (BIA 2020) (finding noncitizen was a flight risk even where

foreign passport was provided). As such, Defendants have not met their burden and thus H.M.A. is a class member who, after over six months of unlawful detention, should be ordered released.

Y.Z.P. Should be Ordered Released

Defendants argue that changed circumstances indicated that Y.Z.P. was a flight risk and danger at “the relevant time” of his re-detention, and that this Court should ignore “alleged facts not available to ICE” at that time. ECF 464 at 6. Defendants point to his having caused a vehicle collision and his failure to appear for a single ICE check-in. *Id.*

As to flight risk, Defendants pointedly ignore that Y.Z.P. has had Special Immigrant Juvenile Status (SIJS) since September 2024, a fact known to ICE at the time it re-arrested him, which grants him a statutory path to lawful permanent residency and eventually U.S. citizenship. *See* Sealed Ex. C at 6 (noting date of approved Form I-360); *cf.* ECF 464 & 464-1 (making no mention of Y.Z.P.’s SIJS status); *see also* *Martinez-Andino v. U.S. Dep’t of Homeland Sec.*, 2026 WL 1801137, at \*2 (D.D.C. June 23, 2026); *Ramos-Lopez v. Bondi*, 2026 WL 1745700, at \*2 (D. Md. June 17, 2026). Removal of Y.Z.P. without compliance with the specific procedures necessary to revoke SIJS would be unlawful. *Ramos-Lopez*, 2026 WL 1745700 at \*6-7. Yet Defendants ignored the fact that Y.Z.P. could not be removed, a fact that clearly mitigates any flight risk. Moreover, Defendants do not deny that Y.Z.P. had deferred action pursuant to his grant of SIJS at the time ICE re-arrested and detained him, which further explicitly precluded his removal. *See* ECF 462 at 4; Ex. D, ECF 462-2 (only terminating Y.Z.P.’s deferred action over two months after ICE’s re-detention). Nor do they attempt to provide any basis for the government’s termination of that protected status. *See id.*; *see also* *Cobo v. Crawford*, Order, ECF 11, No. 26-cv-674-LMB (E.D. Va. June 17, 2026) (finding due process violation where government revoked deferred action of SIJS grantee with reckless driving conviction without

prior notice or explanation, and enjoining re-detention). His SIJ status and deferred action establish that he was not, and is not, a flight risk—a fact that is not overcome by one missed ICE check-in.

As to danger, Defendants argue that this Court should not consider Y.Z.P.’s declaration because it “introduces alleged facts not available to ICE” when it decided to re-detain Y.Z.P. ECF 464 at 6. There is no merit to Defendants’ position. Under this Court’s orders, Defendants were obliged to determine whether material changed circumstances existed in Y.Z.P.’ case upon re-arresting him. *See* ECF 435 at 2; ECF 456 at 12-13; ECF 455. Y.Z.P.’s declaration contains material information regarding his criminal arrest and conviction and his lack of dangerousness and flight risk, all of which ICE could have obtained at the time they re-arrested him by *speaking to him*. Defendants claim they made an evaluation of changed circumstances at the time of Y.Z.P.’s re-arrest and considered various sources of information. Declaration of Kurt Griffin, ECF 464-1 ¶¶ 5, 13. But ICE cannot artificially limit its consideration to only derogatory information, while disregarding mitigating evidence relevant to danger and flight risk—either via personal statements or external documentation—available at the time of its determination. Excluding pertinent evidence from this Court’s consideration of whether there were materially changed circumstances merely because Defendants decided not to conduct a reasonable and fair inquiry would be improper. *See F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 516 (2009) (where a “new policy rests upon factual findings that contradict those which underlay its prior policy . . . . a reasoned explanation is needed for disregarding facts and circumstances”); *Ohio v. EPA*, 603 U.S. 279, 293 (2024) (“An agency cannot simply ignore an important aspect of the problem.” (cleaned up)).

As Defendants acknowledge, this Court held that “redetention requires an individualized determination that circumstances have materially changed.” ECF 464 at 3 (quoting Mem. Op., ECF 456 at 13). Here, both objective facts (a non-violent misdemeanor conviction resulting in a time-served sentence of 15 days) and Y.Z.P.’s statements—which are uncontested by Defendants—establish that the facts of his criminal arrest and conviction do not render him a danger. Ex. A, ECF 462-1 ¶¶ 4-7. Defendants’ assertions to the contrary cannot meet their burden under this Court’s orders and the statute, and Y.Z.P. should thus be ordered released.

### CONCLUSION

For all the foregoing reasons, the Court should grant Plaintiffs’ Motion to Enforce the Court’s June 2, 2026 Order.

Dated: June 26, 2026

Respectfully submitted,

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