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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

Juan CENTENO-MARTINEZ,

Petitioner,

v.

J.L. JAMISON, in his official capacity as Acting Assistant Field Office Director and Administrator of the Philadelphia Federal Detention Facility; BRIAN MCSHANE, in his official capacity as Acting Assistant Field Office Director of the Philadelphia Field Office of U.S. Immigration and Customs Enforcement. Todd Lyons, in his capacity as Acting Director of U.S. Immigration and Customs Enforcement KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security; PAMELA BONDI, in her official capacity as Attorney General of the United States

Respondents.

Case No. 2:25-cv-03993

**VERIFIED PETITION
FOR WRIT OF
HABEAS CORPUS**

**PETITION FOR A WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241**

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Juan Centeno-Martinez ("Mr. Centeno") is a native and citizen of El Salvador who is in the custody of the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"), and is currently detained at the Philadelphia Federal Detention Center ("FDC") in Philadelphia, Pennsylvania. *Exh A.*

2. Mr. Centeno was last admitted to the United States as a lawful permanent resident on August 1, 1994. *Exh B.* He has continuously resided in the U.S. since that date. On January 5, 2001, Respondent was convicted of the offense of aggravated manslaughter pursuant to NJSA 2C:11-4(a). *Exh B.* On May 13, 2014, the Department of Homeland Security (hereinafter "DHS" or "the Department") initially served Respondent with a Notice to Appear (hereinafter "NTA") charging removability pursuant to Immigration and Nationality Act (hereinafter "INA") Section 237(a)(2)(A)(ii) for a crime of violence under INA §101(a)(43)(F). *Exh B.* On May 28, 2019, DHS filed an I-261 with the Court amending the NTA to also include a charge of an aggravated felony pursuant INA §101(a)(43)(A). *Exh C.*

3. Mr. Centeno was detained by DHS on April 25, 2024.¹ *Exh D*. Since then, Mr. Centeno has been detained in immigration custody under 8 U.S.C. §1226(c) for over fourteen months without a hearing to determine whether his detention is necessary to prevent him from fleeing or endangering the community. When detention without a bond hearing under § 1226(c) becomes unreasonable, “the Due Process Clause demands a hearing.” *German Santos v. Warden Pike C’ty Corr. Facility*, 965 F.3d 203, 210 (3d Cir. 2020). The mandatory detention statute has now become unconstitutional as applied to Mr. Centeno, because his detention has become unreasonably prolonged.

4. Mr. Centeno has been detained for over a year, since April 25, 2024, and his detention is likely to continue for many more months during the pendency of his petition for review before the Third Circuit Court of Appeals. He has been transferred to Philadelphia Federal Detention Center, where he is detained under conditions that are indistinguishable from criminal confinement. Therefore, pursuant to *German Santos* and the Third Circuit’s prior precedents, Mr. Centeno is entitled to a bond hearing at which the Government must either prove by clear and convincing evidence that his continued detention is necessary, or release him. 965 F.3d at 214.

¹ Mr. Centeno had previously been detained by DHS on June 17, 2016 and was released on March 22, 2017 following the grant of a pro se Habeas Petition. *Centeno Martinez v. Green*, NJ 2:17-cv-00058-SDW (March 9, 2017) *Exh O*.

PARTIES

5. Petitioner Juan Centeno-Martinez is a noncitizen currently detained by Respondents at Philadelphia Federal Detention Center pending review of his removal order by the Third Circuit Court of Appeals.

6. Respondent J.L. Jamison is named in his official capacity as Warden of the Philadelphia Federal Detention Center, a Federal Detention facility run by the Bureau of Prisons under contract with ICE to house noncitizen detainees. In this capacity, he is responsible for the oversight and custody of detainees at the Philadelphia Federal Detention Center. He is therefore the physical custodian of Petitioner, who is detained at the FDC. Respondent Jamison's office is located at P.O. BOX 572 Philadelphia, PA 19106.

7. Respondent Brian McShane is named in his official capacity as the Philadelphia Field Office Director for ICE. In this capacity, Respondent McShane is responsible for administration and management of ICE Enforcement and Removal Operations in Pennsylvania and exercises control over Petitioner's custody at FDC. He is therefore a legal custodian of Petitioner. Respondent McShane's office is located at 114 N. 8th Street, Philadelphia, PA 19107.

8. Respondent Todd Lyons is named in his official capacity as Acting Director of ICE. In this capacity, Respondent Lyons is responsible for the administration of federal immigration law and the execution of detention and removal determinations, and, as such, he is a legal custodian of Petitioner.

Respondent Lyons's office is located at 500 12th Street, S.W., Washington, D.C. 20536.

9. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, she is responsible for the administration of federal immigration law pursuant to 8 U.S.C. § 1103(a); she routinely transacts business in the Eastern District of Pennsylvania; and she is legally responsible for pursuing Petitioner's detention and removal. As such, she is a legal custodian of Petitioner. Respondent Noem's office is located at U.S. Department of Homeland Security, 2707 Martin Luther King Jr. Ave SE, Washington, D.C. 20528.

10. Respondent Pamela Bondi is named in her official capacity as Attorney General of the United States. In this capacity, she is responsible for the administration of federal immigration law, directly and by delegation to the Executive Office for Immigration Review, pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Eastern District of Pennsylvania and is legally responsible for adjudicating Petitioner's removal and custody-redetermination proceedings and for determining the standards and jurisdictional limitations in those proceedings. As such, she is a legal custodian of Petitioner. Respondent Bondi's office is located at the U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001.

JURISDICTION AND VENUE

11. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

12. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

13. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against its agencies' officers, who are sued in their official capacities. *See* 5 U.S.C. § 702.

14. Venue is proper in this District under 28 U.S.C. § 1391 because the Petitioner is detained in this District.

STATEMENT OF FACTS

I. Petitioner's Removal Proceedings

15. Mr. Centeno is a noncitizen who was last admitted to the United States as a lawful permanent resident on August 1, 1994. *Exh E.* He has continuously resided in the U.S. since that date. *Id.* On January 5, 2001, the respondent was convicted of aggravated manslaughter in the New Jersey Superior Court, Hudson County, in violation of N.J.S. § 2C:11-4(a) and sentenced to a term of ten years' imprisonment. *Id.*

16. Mr. Centeno was served a Notice to Appear on May 13, 2014, which was served on June 13, 2016. *Exh B.* Mr. Centeno filed a pro-se I 589 after his first calendered hearing on September 20, 2016. *Exh F.* On May 28, 2019, DHS filed an I-261 with the Court amending the NTA to also include a charge of an aggravated felony pursuant INA §101(a)(43)(A). *Exh C.* Mr. Centeno contested both charges and on June 25, 2019 filed a Motion to Terminate with the court along with written pleadings. *Exh G.*

17. The motion to terminate argued that Mr. Centeno's New Jersey Aggravated Manslaughter convicted was not a categorical match to the federal aggravated felony statutes. *Exh G.* The Immigration Court found that Mr. Centeno's conviction could not sustain a removability charge under 8 U.S.C. 1227(a)(2)(A)(iii) for having being convicted of a crime of violence. However, the Immigration Court also found that this conviction could sustain a removability charge under 8 U.S.C. 1227(a)(2)(A)(iii) for having being convicted of murder. The Immigration Court denied the motion to terminate. *Exh H.*

18. On April 25, 2024, Mr. Centeno was arrested and charged with Aggravated Assault-On Domestic Violence Victim and Theft by Unlawful Taking pursuant to NJSA 2C: 12-18 (12i) and 2C:2C-3A. *Exh I.* He was subsequently detained by ICE. On May 16, 2024 the aggravated assault and theft charges were dismissed. *Exh I.* He has been detained ever since.

19. Mr. Centeno has not had a chance to contest his current custody. He filed a motion for custody redetermination scheduled for May 21, 2024, but withdrew

it after the Immigration Court determined that there were open questions about whether he had been convicted of an aggravated felony *Exh J*. On May 29, 2024, Mr. Centeno filed a new motion for custody redetermination pursuant to *Matter of Joseph*, 22 I & N Dec. 799 (BIA 1999), asking the IJ to additionally reconsider the arguments from the motion to terminate. *Id.* On June 10, 2024, Mr. Centeno submitted additional legal arguments in favor of termination, and thus of custody redetermination. *Id.* The IJ denied the motion. *Exh K*. Because the only issue before the IJ in the custody redetermination motion was Mr. Centeno's status as subject to mandatory detention under § 1226(c), Mr. Centeno has never had a bond hearing at which an IJ considered whether he is likely to flee or be a danger to the community if released.

20. On June 11, 2024, a master calendar hearing was conducted, and Mr. Centeno's case was continued until July 11, 2024 for counsel to file an updated counseled I-589 application. The I-589 was filed July 10, 2024, and at the July 11 hearing the merits hearing was scheduled for October 21st, 2024. *Exh L*. At the merits hearing, the IJ denied relief. Mr. Centeno filed a timely notice of appeal and filed his appeal on March 3, 2025. *Exh M*.

21. On May 2, 2025, the Board of Immigration Appeals (BIA) affirmed an immigration judge's denial of Mr. Centeno's motion to terminate proceedings and his application for deferral under the Convention Against Torture (CAT). Mr. Centeno filed a petition for review with the Third Circuit Court of Appeals on May 8, 2025. *Exh P* He filed a motion to stay his removal with the Court of Appeals, and the Court

issued a temporary stay on May 9, 2025. *Exh Q*. Mr. Centeno's opening brief does not yet have a due date set.

22. Even though Mr. Centeno has a final removal order from the BIA, he is still detained under 1226(c) because he has a temporary stay of removal from the Third Circuit Court of Appeals. *Leslie v. Att'y Gen. of the U.S.*, 678 F.3d 265, 270 (3d Cir. 2012).

II. Conditions of Petitioner's Confinement

23. Mr. Centeno is detained at the Philadelphia Federal Detention Center ("FDC"), a Federal prison operated by the Bureau of Prisons. FDC is used for Federal criminal inmates noncitizens in the custody of ICE. As Mr. Centeno explains in his declaration:

We are put on lockdown about twice a month . . . During lockdown, I'm stuck in my cell most of the day.

When there isn't lockdown, I can go outside to the yard. Even when we're not officially in lockdown, much of the day is spent locked down. They lock us down at 10 AM for the count, we eat lunch at 11-12, and then get locked into our cell again at 3 PM. We are locked in for the night at 9 PM. However, when we're in full lockdown, we eat in our rooms and can't go out.

The BOP officers strip search me every time I have a visitor, and make me wear different clothes to visit people.

Exh A ¶¶ 2-4.

Mr. Centeno had previously been detained at the Moshannon Valley Processing Center, from April of 2024 until March of 2025.

LEGAL FRAMEWORK

24. Title 8 section 1226 provides for detention of noncitizens during the pendency of their removal proceedings. Sec. 1226(a) entitles most noncitizens to a hearing before an Immigration Judge to determine whether they should be released on bond. 8 U.S.C. § 1226(a); 8 C.F.R. § 1236.1(d). Noncitizens like Petitioner, who are removable by virtue of certain criminal convictions, are not entitled to a bond hearing, pursuant to Sec. 1226(c). 8 U.S.C. § 1226(c); *Jennings v. Rodriguez*, 138 S. Ct. 830, 847 (2018).

25. “It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

26. Due process requires “adequate procedural protections” to ensure that the Government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528. Thus, to withstand constitutional scrutiny, the nature and duration of immigration detention must be reasonably related to those purposes. To determine whether immigration detention violates procedural due process, courts

apply the familiar *Mathews v. Eldridge* balancing test and weigh the private liberty interest at stake, the risk of erroneous deprivation and the probable value of additional safeguards, and the Government's interest. 424 U.S. 319, 335 (1976); see *Gayle v. Warden Monmouth County Correctional Institution*, 12 F.4th 321, 331 (3d Cir. 2021) (applying *Mathews* to determine the procedural protections necessary to justify continued detention); *German Santos*, 965 F.3d at 213; *Guerrero-Sanchez v. Warden York C'ty Prison*, 905 F.3d 208, 225 (3d Cir. 2018) (same).

27. In *Demore v. Kim*, the Supreme Court upheld the constitutionality of § 1226(c), the mandatory detention statute under which Mr. Centeno is detained, against a facial challenge. 538 U.S. at 531. *Demore* emphasized the relatively short length of detention, noting that “the detention at stake under § 1226(c) lasts roughly a month and a half in the vast majority of cases . . . and about five months in the minority of cases in which the alien chooses to appeal.”² Therefore, Justice Kennedy's concurrence in *Demore* provided critical additional guidance by confirming that, at some point in time, a noncitizen “could be entitled to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified.” *Id.* at 532 (Kennedy, J., concurring).

² This conclusion relied on faulty data provided to the Court by the Solicitor General's office. Years later, the Solicitor General informed the Court that the analysis the Court had relied on was inaccurate, and that detention actually lasted closer to a year in many cases. Letter from Ian Heath Gershengorn, Acting Solicitor Gen., to Scott S. Harris, Clerk, Supreme Ct. of the U.S. (Aug. 26, 2016), *available at* <https://on.wsj.com/2sUWIGk>. While the Supreme Court believed that cases involving appeals to the BIA lasted about five months on average, they actually take an average of 382 days. *Id.* at 3.

28. Since *Demore*, the Third Circuit has repeatedly addressed the constitutionality of prolonged mandatory detention without a bond hearing pursuant to § 1226(c). In *Diop v. ICE/Homeland Sec.*, it held that “when detention becomes unreasonable, the Due Process Clause demands a hearing, at which the Government bears the burden of proving that continued detention is necessary to fulfill the purposes of the detention statute.” 656 F.3d 221, 233 (3d Cir. 2011). It then applied the canon of constitutional avoidance and interpreted § 1226(c) to only authorize detention that is reasonable, and therefore constitutional. *Id.* at 235. The Court further explained its due process analysis of prolonged mandatory detention in *Chavez-Alvarez v. Warden York County Prison*:

[D]ue process requires us to recognize that, at a certain point—which may differ case by case—the burden to an alien’s liberty outweighs a mere presumption that the alien will flee and/or is dangerous. At this tipping point, the Government can no longer defend the detention against claims that it is arbitrary or capricious by presuming flight and dangerousness: more is needed to justify the detention as necessary to achieve the goals of the statute.

783 F.3d 469, 474–75 (3d Cir. 2015).

29. In 2018, the Supreme Court held that § 1226(c) does not require bond hearings as a matter of statutory construction. *Jennings*, 138 S. Ct. at 847. *Jennings*, however, did not address whether prolonged detention without a bond hearing under § 1226(c) can become unconstitutionally prolonged. *Id.* at 851. Instead, it remanded to the Ninth Circuit to consider the constitutional question in the first instance. *Id.*

30. After *Jennings*, the Third Circuit reaffirmed the availability of as-applied constitutional challenges to prolonged detention under § 1226(c), and held

that the constitutional portions of *Chavez-Alvarez* and *Diop* remain good law. *German Santos*, 965 F.3d at 210. Unlike the Ninth Circuit decision that was reversed in *Jennings*, those Third Circuit decisions had gone beyond simply applying constitutional avoidance and actually held that “§ 1226(c) is unconstitutional when applied to detain an alien unreasonably long without a bond hearing.” *Id.* Therefore, the constitutional analyses from *Diop* and *Chavez-Alvarez* still govern as-applied constitutional challenges to prolonged immigration detention without a bond hearing. *Id.* Guided by those decisions, the Court in *German Santos* identified the following four factors for courts to consider when determining whether prolonged detention under § 1226(c) has become unconstitutional: 1) the length of detention; 2) whether detention is likely to continue; 3) the reasons detention has been prolonged (including errors or bad faith by either party); 4) and whether the conditions of confinement are similar to those imposed as criminal punishment. *Id.* at 211.

31. When detention without a bond hearing becomes unreasonably prolonged, due process requires a bond hearing at which “the Government bears the burden of persuasion by clear and convincing evidence. That evidence must be individualized and support a finding that continued detention is needed to prevent [the noncitizen] from fleeing or harming the community.” *Id.* at 214.

32. At that bond hearing, due process requires consideration of the noncitizen’s ability to pay bond. *Hernandez v. Session*, 872 F.3d 976, 990-92 (9th Cir. 2017) (“By maintaining a process for establishing the amount of a bond that likewise fails to consider the individual’s financial ability to obtain a bond in the amount

assessed or to consider alternative conditions of release, the government risks detention that accomplishes little more than punishing a person for his poverty.”) (internal quotation marks omitted); *Brito v. Barr*, 415 F. Supp.3d 258, 267 (D. Mass. 2019) (holding that requiring immigration courts to consider ability to pay and alternative conditions of release “ensures that the decision to continue detention of an alien is reasonably related to the Government’s interest in protecting the public and assuring appearances at future proceedings”); *Abdi v. Nielsen*, 287 F. Supp. 3d 327, 338 (W.D.N.Y. 2018) (holding that “permitting the calculation of bond without requiring consideration of the detainee’s ability to pay effectively erodes any legitimate governmental interests justifying continued detention” and “raises serious due process concerns”); *Leslie v. Holder*, 865 F. Supp. 2d 627, 641 (M.D. Pa. 2012) (“[W]e reject respondents efforts to assert a categorical hurdle to bail by inviting us to treat Leslie’s poverty as a meaningless factor in a bail assessment.”); *see also Black v. Decker*, 103 F.4th 133, 155 (2d Cir. 2024) (holding that it is proper for the IJ to consider both the petitioner’s ability to pay and any alternatives to detention).

33. Likewise, due process requires immigration judges to consider alternative conditions of release when setting a bond. The primary purpose of immigration detention is to ensure a noncitizen’s appearance during removal proceedings. *Zadvydas*, 533 U.S. at 697. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE’s alternatives to detention program—the Intensive Supervision Appearance Program—has achieved

extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *Hernandez*, 872 F.3d at 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”); *see also* U.S. Gov’t Accountability Office, *Alternatives to Detention* 26, 35 (Nov. 2014), <https://www.gao.gov/assets/670/666911.pdf> (showing that telephonic monitoring alone has a nearly 90% success rate). Therefore, district courts have held that due process requires consideration of alternatives to detention at bond hearings where the government bears the burden of proof. *Ousman D. v. Decker, et al.*, No. CV 20-9646 (JMV), 2020 WL 5587441, at *4 (D.N.J. Sept. 18, 2020); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241 (W.D.N.Y. 2019).

CLAIM FOR RELIEF

Violation of Fifth and Fourteenth Amendment Right to Procedural Due Process Unreasonably Long Detention Without a Bond Hearing

34. Petitioner re-alleges and incorporates by reference the paragraphs above.

35. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V.

36. Each of the four *German Santos* factors illustrate that Mr. Centeno's detention has become unconstitutionally prolonged. First, the length of Mr. Centeno's detention favors a finding of unreasonableness. See *German Santos*, 965 F.3d at 211. Mr. Centeno has been detained for fourteen months. This is significantly longer than the five months that the Supreme Court in *Demore* viewed as the typical upper limit on detention, after which detention becomes "more and more suspect." *Diop*, 656 F.3d at 234; see *Demore*, 538 U.S. at 529-30; *German Santos*, 965 F.3d at 211. It has also exceeded the six months to a year range during which the Third Circuit held that Mr. Chavez-Alvarez's detention became unconstitutional. *Chavez-Alvarez*, 965 F.3d at 211. Applying *Chavez-Alvarez*, district courts in this Circuit have found similar periods of detention to be unreasonable. See, e.g., *Sisilano-Lopez v. Lowe*, 448 F. Supp. 3d 419, 425 (M.D. Pa. 2020) (holding that detention of twelve months "escaped the realm of reason"); *Kleinauskaite v. Doll*, No. 4:17-cv-02176, 2019 WL 3302236, at *6 (M.D. Pa. July 23, 2019) (same); *Bah v. Doll*, No. CV 3:18-1409, 2018 WL 5829668, at *1 (M.D. Pa. Nov. 7, 2018) (granting petition when detention exceeded fourteen months"). Therefore, the length of detention supports a finding that Mr. Centeno's detention has become unconstitutional.

37. Second, the likelihood of future detention weighs in favor of relief. *German Santos*, 965 F.3d at 211. Mr. Centeno's detention is likely to continue for many more months pending adjudication of his petition for review, which raises complex legal issues, before the Third Circuit Court of Appeals. Mr. Centeno's Third Circuit briefing schedule has not yet been issued, and it could be months before the

circuit makes a decision. Therefore, like in *Chavez-Alvarez*, it is likely that Petitioner's appeal will "take a substantial amount of time, making his already lengthy detention considerably longer." *Chavez-Alvarez*, 783 F.3d at 478.

38. Furthermore, the Third Circuit's decision may not end Mr. Centeno's removal proceedings. The Third Circuit may remand to the agency for further proceedings. See, e.g., *Myrie v. Att'y Gen. U.S.*, 855 F.3d 509,518 (3d Cir. 2017). Therefore, Mr. Centeno will likely be detained for significant additional time, and this factor weighs in favor of a finding of unreasonableness.

39. The third factor is the reason for the delay. *German Santos*, 965 F.3d at 211. In assessing this factor, courts may consider whether either party "made careless or bad-faith errors in the proceedings that caused unnecessary delay," but must be careful not to hold "good-faith challenges to removal" against a petitioner, "even if his appeals or applications for relief have drawn out the proceedings." *German Santos*, 965 F.3d at 211 (internal quotation marks omitted); see also *Leslie*, 678 F.3d at 271 (cautioning against "effectively punish[ing] [petitioners] for pursuing applicable legal remedies"). Moreover, detention "can still grow unreasonable even if the Government handles the removal proceedings reasonably." *German Santos*, 965 F.3d at 211.

40. In this case, Mr. Centeno did not cause significant delay in his proceedings that would justify his unreasonably prolonged detention. Rather, the Government had ample opportunity, either during his first detention or in the years between his detentions, to resolve this case. Mr. Centeno's motion to terminate was denied in 2020 and his next hearing did not occur until after he was detained. Mr.

Centeno has remained detained only because he is pursuing his applicable legal remedies. The reasons for delay favor relief or, at a minimum, do not favor either side. *See German Santos*, 965 F.3d at 212.

41. Finally, the fourth factor is whether the petitioner's conditions of confinement are "meaningfully different from criminal punishment." *German Santos*, 965 F.3d at 211. The purpose of this factor, like the other three factors, is to assess the degree of the deprivation of liberty at stake, in order to determine what procedural protections are necessary to justify that deprivation. *See Application of Gault*, 387 U.S. 1, 27 (1967) (considering the conditions of juvenile confinement when deciding what process is due in juvenile court); *Chavez-Alvarez*, 783 F.3d at 478.

42. Judges in this District have reviewed the conditions of ICE detainees at Philadelphia FDC, where Mr. Centeno is currently confined, and Moshannon Valley Processing Center, where Mr. Centeno was previously confined, and found that their conditions are not meaningfully different from those of the convicts who are also at FDC. *Grigoryan v. Jamison*, No. CV 25-1389, 2025 WL 1257693, at *5 (E.D. Pa. Apr. 30, 2025). The Court in *Grigoryan*, reviewing the conditions at Philadelphia FDC, stated that "As in any prison, ICE detainees experience occasional lockdowns . . . and can be sent to solitary confinement," and that ICE detainees were given identical privileges and conditions to criminal detainees, and thus, taken as a whole, the "conditions while housed at FDC were not meaningfully different from criminal punishment." *Id.* *Grigoryan* also reviewed the conditions in Moshannon and noted that "several district court judges in this circuit have found that the conditions at

Moshannon are penal in character.” ³*Id.*, quotations removed, citing *Rivas v. Oddo*, No. 22-223, 2023 WL 4361140, at *1 (W.D. Pa. June 27, 2023); *Morgan v. Oddo*, No. 24-221, 2025 WL 1134979, at *4–5 (W.D. Pa. Apr. 17, 2025); *Akhmadjanov*, 2025 WL 660663, at *5; *Michelin v. Oddo*, No. 23-cv-22, 2023 WL 5044929, at *7 (W.D. Pa. Aug. 8, 2023).

43. Mr. Centeno, who spent years in state prisons, states in his declaration that the conditions he faces in FDC are:

worse than any of the state prisons. The guards call us names, tell us we have no rights, curse at us. These are BOP officers. They’ll send you to the SHU just for looking at them. At least in prison, you could take programs, get education, go to the library, have a job, go to the yard, learn trades. I took a lot of classes in prison and it really helped me. Here I have nothing.

Exh A ¶10.

44. Mr. Centeno is thus detained in circumstances that are “indistinguishable from criminal punishment.” *German Santos*, 965 F.3d at 213. Therefore, the final factor weighs strongly in favor of a finding of unreasonableness.

45. In conclusion, pursuant to the Third Circuit’s decisions in *Chavez Alvarez* and *German Santos*, Mr. Centeno has shown that his detention without a bond hearing has become unconstitutionally prolonged, and he is entitled to a hearing at which the Government bears the burden of showing, by clear and convincing evidence, that his continued detention is necessary.

³ The petitioner in *Grigoryan* also noted that the conditions of his confinement at Moshannon were “better than those at the Federal Detention Center.” *Id.* This is consistent with Mr. Centeno’s statements.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Declare Petitioner's ongoing prolonged detention without a bond hearing by Respondents to be unconstitutional;
- 3) Issue a Writ of Habeas Corpus and order Petitioner's release within 10 days unless Defendants schedule a hearing before an immigration judge where: (1) in compliance with *German Santos v. Warden Pike C'ty Corr. Facility*, 965 F.3d 203 (3d Cir. 2020), to continue detention, the Government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the Government cannot meet its burden, the immigration judge order Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond.
- 4) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant such further relief as the Court deems just and proper.

DATED: July 14, 2025
Edison, New Jersey

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