UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

JORGE SUAZO SOTO, Plaintiff, v. Eric ROKOSKY, Warden, Elizabeth Detention Center; Kristi NOEM, Director, U.S. Department of Homeland Security; Todd LYONS, Acting Director, U.S. Immigration and Customs Enforcement; and John TSOUKARIS, Field Office Director of U.S. Immigration and Customs Enforcement Newark Field Office, Defendants.	)	Case No:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

PRELIMINARY STATEMENT

1. Plaintiff challenges the unreasonable, unlawful, and unconstitutional actions taken by the Defendants in relation to his seizure and detention. The Defendants have acted in a manner which violates the Constitution at a minimum, as well as their own policies and regulations regarding the detention of respondents in removal proceedings.

2. On Tuesday, June 24, 2025, at approximately 6:30am, agents for U.S. Immigration and Customs Enforcement ("ICE"), flouted the U.S. Constitution and federal law in connection with the ongoing directive from the Department of Homeland Security to unlawfully and improperly detain, by force of punching out a car window and pulling from a car, a law-abiding individual with no criminal conduct and a Merits hearing scheduled before the Immigration Court, without a judicial warrant or due process.

3. Following the violent and abusive manner in which Plaintiff was detained, his counsel immediately set out to schedule a bond hearing, which started a process of ping-ponging the case and deflecting jurisdiction or responsible for scheduling of a hearing, and refusing to allow Plaintiff to speak with his attorney.

4. The Defendants, as a matter of law, know that on the true facts, Plaintiff is not subject to detention, and was not subject to being detained in the manner it was conducted, as he was not a flight risk and did not pose a risk of danger to the community, as required by law.

5. The Defendants' actions in this case are and were arbitrary, have no basis in the law, and violated the Plaintiff's clear Fourth and Fifth Amendment rights.

6. Despite this, on June 24, 2025, the Defendants knowingly violated their own policies and procedures, engaging in conduct that was violative of 8 U.S.C. 1357, 8 C.F.R. 287(a) and (c), and the Fourth Amendment of the United States Constitution, as well as a gross violation of *basic human decency.*

7. Defendants' actions have harmed and continue to harm Plaintiff as their unlawful actions have caused family separation from his children, and have left the Plaintiff detained without a lawful basis to do so, and without the protections accorded by due process.

8. Plaintiff now seeks review of the unlawful seizure and detention of his person in violation of the INA, regulations, and the Fourth and Fifth Amendments.

CUSTODY

9. Plaintiff is in the physical custody of Defendant John Tsoukaris, Field Office Director of the Newark Office of U.S. Immigration & Customs Enforcement ("ICE"), the Department of Homeland Security ("DHS"), and Defendant Eric Rokosky, Warden of the Elizabeth Contract Detention Center in Elizabeth, New Jersey. At the time of filing this Petition, the Plaintiff is detained at the Elizabeth Contract Detention Center in Elizabeth, New Jersey. The Elizabeth Contract Detention Center contracts with DHS to detain aliens such as the Plaintiff. Plaintiff is under the direct control of Defendants and their agents.

JURISDICTION AND VENUE

10. This action arises under the Constitution of the United States, the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq. This Court has jurisdiction under 28 U.S.C. § 2241, art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause") and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the

United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All Writs Act, 28 U.S.C. § 1651.

11. Venue lies in the United States District Court for the District of New Jersey, under 28 U.S.C. § 1391, on the following grounds: 1) Defendants are officers or employees of the United States or agencies in the United States who are sued in their official capacity for their acts under the color of legal authority (28 U.S.C. §1391(e)(1)); 2) acts or omissions giving rise to this petition occurred in this judicial district (28 U.S.C. § 1391(e)(2)); and 3) Plaintiff resides in this judicial district (28 U.S.C. §1391(e)(3).

PARTIES

12. Plaintiff Jorge Alberto Suazo Soto ("Plaintiff") is a national and citizen of Honduras. Plaintiff is detained by Respondent's allegedly pursuant to 8 U.S.C. § 1226(a), which permits DHS to detain aliens, such as Plaintiff, pending the alien's removal proceedings.
13. Defendant Eric ROKOSKY ("Defendant Rokosky") is the warden of the Elizabeth Contract Detention Center in Elizabeth, New Jersey. He is Plaintiff's immediate custodian and is established in the judicial district of the United States District Court for the District of New Jersey. He is sued in his official capacity.
14. Defendant Kristi NOEM ("Defendant Noem") is the Secretary of the Department of Homeland Security ("DHS"), which is responsible for administering and enforcing the nation's immigration laws pursuant to 8 U.S.C. § 1103(a). In this role, she oversees component agencies such as Immigration and Customs Enforcement (ICE). Defendant Noem is sued in her official capacity.

15. Defendant Todd LYONS ("Defendant Lyons") is the Acting Director of U.S. Immigration and Customs Enforcement (ICE), an agency of the United States and a division of DHS. ICE's mission includes the enforcement of criminal and civil laws related to immigration. Among other things, ICE is responsible for the stops, arrests and custody of individuals believed to be in violation of civil immigration law. Defendant Lyons is sued in his official capacity.

16. Defendant John TSOUKARIS ("Defendant Tsoukaris") is the Field Office Director for the Newark Field Office of ICE. In that capacity, Defendant Tsoukaris is responsible for the supervision of personnel within ICE's Enforcement and Removal Operations (ERO) in the geographic area covered by the Newark Field Office, which includes the Elizabeth Contract Detention Center. Defendant Tsoukaris is sued in his official capacity.

STATEMENT OF FACTS

17. Plaintiff is a native and citizen of Honduras. (See Exhibit A).

18. Plaintiff has resided in the United States since November 18, 1996.

19. Plaintiff was placed in removal proceedings on June 3, 2015.

20. Plaintiff is the father of two United States citizen daughters, who rely on their father for financial, emotional and mental support, as well as ensuring their primary needs such as food and shelter are met.

21. Plaintiff has applied for Asylum and Withholding from Removal before the Immigration Court on or about November 1, 2017, and submitted his application for Cancellation of Removal for Certain NonPermanent residents on September 2, 2021.

22. Due to COVID-19 and the previous administration, through no fault or request of the Plaintiff, his case was delayed and continued several times by DHS and the Immigration Court.

23. Additionally, despite previous efforts of the Defendants to remove the Plaintiff's case from the court calendar, Plaintiff has continuously fought to keep his case on the docket so as not to remain here illegally, but to resolve his issues through legal means.

24. Prior to his unlawful detention, Plaintiff was scheduled for an Individual Hearing in the Newark Immigration Court on July 6, 2028.

25. On June 24, 2025, Plaintiff was picking up a coworker for work around 6:30a.m., on Lufberry Street in New Brunswick, New Jersey (See Exhibits D-G).

26. When the Plaintiff pulled his car up to the side of the road, three unmarked vehicles moved to come out from behind him, and surrounded the van, closing off any way for the Plaintiff to drive away. (See Exhibits D-G).

27. Upon information and belief, at least three individuals – one female and two males, emerged from the vehicles, dressed in unmarked clothes and wearing masks, approached the vehicle. (See Exhibits D-G).

28. Upon information and belief, one of the agents hit the glass of Plaintiff's driver side window twice, yelling at the Plaintiff to get out of the car. (See Exhibits D-G).

29. At no time did the man, or any other individual tell the Plaintiff who they were, why they were there, or attempt to identify him.

30. When the Plaintiff did not immediately move to get out of the car – terrified that he was the victim of a hijacking – the male agent smashed the window of the van to pull the Plaintiff out, causing Plaintiff minor injuries in the process. (See Exhibits D-G).

31. The agents did not say anything to Plaintiff about who they were as they moved him into one of the vehicles and left, leaving the van and the Plaintiff's coworker behind.
32. The Plaintiff did not learn until after he was brought to Elizabeth Contract Detention Center that he was detained by ICE, and was not told why he was being detained.
33. The Plaintiff has no criminal record that requires detention, and has dutifully been attending all of his immigration hearings for more than a decade, trying to get his applications for relief heard on the merits.
34. The Defendants did not have a warrant for the detention of the Plaintiff, and failed to follow their own procedures for the detention of aliens, including making an individualized flight risk assessment before taking steps to detain the Plaintiff.
35. Since his detention on June 24, 2025, Plaintiff has been denied access to his attorney despite repeat requests from his attorney.
36. The Defendants have repeatedly claimed they would schedule a time for Plaintiff and his attorney to speak on an attorney-confidentiality protected line, and have failed to present the Plaintiff for any calls.
37. The only way that the Plaintiff has been able to speak to his attorney is by being conferenced into calls with his attorney – on a line that is not protected and is likely monitored by the Defendants – when Plaintiff's daughter calls to speak to him.
38. The failure to allow communication with the Plaintiff has continued since June 24, 2025 and has persisted as of today's date.
39. Following the detention of Plaintiff, his attorney's office filed a Motion for Bond with the Newark Immigration Court, who still had jurisdiction over his case as there had been no

transfer to another, and the merits hearing on his case was still scheduled with that Court, on June 27, 2025. (See Exhibit H).

40. The Newark Immigration Court rejected the filing on June 30, 2025, claiming that the motion had to be filed with the Elizebeth Immigration Court, as they did not have jurisdiction over detained individuals. (See Exhibit J).

41. On July 1, 2025, Counsel for the Plaintiff filed a Motion for Bond at the Elizabeth Immigration Court as instructed, as well as with the Newark Immigration Court, which the ECAS online system was showing still had jurisdiction over the case.

42. On July 3, 2025, the Elizabeth Immigration Court rejected the bond motion, asking for a pre-NTA filing, even though the NTA had been issued and the case pending on its merits since June 3, 2015. (See Exhibit K).

43. On July 7, 2025, Counsel for the Plaintiff sent staff to file the Motion for Bond at the Elizabeth and Newark Immigration Courts in an attempt to get one of the courts to recognize their jurisdiction over a detained person and schedule a bond hearing.

44. On July 10, 2025, the Newark Immigration Court rejected the July 1, 2025 attempt to file a bond motion, claiming that it was the wrong court to file for bond. (See Exhibit L).

45. On July 10, 2025, the Elizabeth Immigration Court issued a rejection notice of the July 7, 2025 Motion for Bond.

46. A bond hearing was not scheduled for the Plaintiff until July 17, 2025, after five filings and rejections, and numerous visits to both courts by counsel's staff and repeated phone calls.

47. Prior to the bond hearing on July 16, 2025, DHS filed a Form I-831 Record of Deportable/Inadmissible Alien which contained **numerous false statements and**

misrepresentations of the Plaintiff's record, indicating that the Defendants likely confused him with another individual or were engaged in active disinformation.

48. Specifically, the I-831 alleged that Plaintiff had received voluntary return previously, when he had not. Further, the I-831 alleged that the Plaintiff entered without inspection when he had been waived in at the border, and alleged Plaintiff had requested for his removal proceedings to be taken off calendar on February 27, 2023.

49. In fact, the Defendants had been the ones to file a motion to take the case off-calendar referenced in the I-831, the Plaintiff had opposed the removal of the case from the docket, and the case was set for a hearing on the merits. The Defendants were also aware he had been inspected and admitted as it was addressed in the ongoing removal proceedings.

50. The Form I-831 most concerningly makes illusory allegations that Plaintiff "was identified during an investigation into damage of government property." There was no warrant for arrest related to this apparent investigation, there have been no charges alleging that Plaintiff was involved in any criminal conduct, nor has he ever damaged government property and there was no judicial warrant alleging the same. The entry in the Form I-831 seems like it was false and pretextual for the purposes of detaining an individual who was lawfully awaiting a merits hearing on his asylum and cancellation of removal applications.

51. Concurrent with the misleading Form I-831, the Defendants also filed additional charges against the Plaintiff, now alleging inadmissibility under INA 212(a)(7), consistent with their ongoing efforts to find a legal reason to detain and remove everyone, regardless of legal sufficiency of the charges or the factual backgrounds of cases, which they know to be inapplicable here since Plaintiff was inspected and admitted.

52. At the hearing on July 17, 2025, the Immigration Judge indicated that they could not go forward with the hearing because they had not received the evidence in the bond file, despite the fact that it had been filed five times, and specifically three times to the Elizabeth Immigration Court, and it had been in the both the physical file and the ECAS system for more than week. The Immigration Judge forced Counsel for Plaintiff to withdraw the bond motion stating that if Counsel did not, she would have to deny it for a lack of evidence.
53. Counsel for Plaintiff noted that the master hearing was scheduled to be held after the bond hearing, and all of the evidence that had been submitted for the bond application was in the A-file with the Plaintiff's application for cancellation for removal in greater detail. The Immigration Judge refused to access the A-file for the master hearing, again giving Counsel for Plaintiff the choice of withdrawal or denial.
54. Counsel requested the Court access the electronic file for the bond hearing to see if the evidence was there, and again the Court refused. Counsel for the Defendants also misrepresented the electronic file stating there were no rejections, when in fact, there were several rejections from the ECAS system (See Exhibits J-N). The Immigration Judge again gave Counsel for Plaintiff the choice of withdrawal or denial.
55. With the choices presented, Plaintiff was forced to withdraw the application for bond.
56. Following the hearing, Plaintiff has continued to be denied access to his attorney, and has continued to be detained with no cause.
57. As of today's date, Plaintiff has not been released from detention.
58. As of today's date, Plaintiff has not been charged with any of the conduct purportedly alleged by the Defendants.

59. There was not and continues to be no basis in the law for the detention of the Plaintiff, in violation of his Fourth Amendment rights against warrantless seizure, and has not been permitted access to his Counsel in violation of his Fifth Amendment rights.

COUNT ONE
Violation of 8 U.S.C. § 1357(a)(2); APA Violations
Warrantless Arrests without Probable Cause of Flight Risk
And Illegal Use of Force
(Against All Defendants)

60. Plaintiff incorporates paragraphs 1 through 59 as if fully stated herein.

61. Defendants illegally detained Plaintiff by arresting him with no legal grounds or probable cause for doing so.

62. Defendants' practices, interpretations of the law, conduct and failure to act violate the APA as the alleged agency action:

a. has caused "[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review therefore." 5 U.S.C. § 702;

b. has not afforded "all interested parties an opportunity for: (1) the submission and consideration of facts, arguments…" under U.S.C. 554 § (c)(1);

c. "unlawfully withheld or unreasonably delayed" proper decisions under 5 U.S.C. § 706(1);

d. is "arbitrary, capricious and an abuse of discretion or otherwise not in accordance with law," under 5 U.S.C. § 702(2)(A); and

e. was "without observance of procedures required by law," under 5 U.S.C. § 706(2)(D).

63. 8 U.S.C. § 1357(a)(2) requires that arrests without a warrant be accompanied by "reason to believe" that an individual is "likely to escape before a warrant can be obtained for [their] arrest."

64. Defendants have a policy, pattern and practice of making arrests without any warrant without making an individualized determination of flight risk. They have no mechanism for ensuring compliance with the statutory limits of agents' and officers' warrantless arrest authority and do not provide guidance to agents and officers on how to make an individualized determination of likelihood of escape. Defendants permit agents and officers to make warrantless arrests carte blanche in violation of the law.

65. Defendants' policy, pattern, and/or practice of making warrantless arrests without the required individualized flight risk analysis is "final agency action" that is "in excess of statutory jurisdiction, authority, or limitations" under 8 U.S.C. § 1357(a)(2). 5 U.S.C. §§704, 706(2)(C).

66. Defendants' actions are ultra vires to the requirements of 8 U.S.C. § 1357, as well as their own regulations regarding arrest procedures under 8 C.F.R. § 287.

67. The Defendants intentionally acted in creating a sudden, violent and terrifying confrontation that unfolded without warning or explanation, in violation of their own regulations and procedures at 8 C.F.R. § 287.8(c)(2)(iii), which states: "At the time of arrest, the designated immigration officer shall, as soon as it is practical and safe to do so: (A) Identify himself or herself as an immigration officer who is authorized to execute an arrest; and (B) state that the person is under arrest and the reason for the arrest."

68. Defendants traveled in unmarked cars, and aggressively intercepted and surrounded the Plaintiff's van as he was stopped to pick up a coworker to drive to work – as he was properly licensed and authorized to do.

69. The Defendants wore unmarked clothing that did not clearly or meaningfully identify them as immigration officers, as well as masks which obscured their faces.

70. The Defendants did not identify themselves, did not ask Plaintiff to identify himself, and did not explain why they were present as required by their own regulations and procedures.

71. 8 C.F.R. 287.8(a)(iii) provides that "[a] designated immigration officer shall always use the minimum non-deadly force necessary to accomplish the officer's mission and shall escalate to a higher level of non-deadly force only when such higher level force is warranted by the actions, apparent intentions, and apparent capabilities of the suspect, prisoner, or assailant."

72. The Defendants' own regulations reflect that use of force is a grave measure that must be reserved exclusively for the most exigent and exceptional circumstances, where it is necessary, proportionate and clearly justified under the law.

73. The Defendants surrounded Plaintiff's vehicle, approached and hit the window, demanding the Plaintiff get out of the car without identifying themselves, without stating why they were there, and after two hits on the window, broke the window, dragging him out of the van.

74. The Defendants had no probable cause to make a warrantless arrest, had no objectively or subjectively reasonable belief that the Plaintiff was going to cause any imminent harm to their person or was going to flee the scene, and made no reasonable efforts to detain

Plaintiff beforehand such as issuing a notice asking him to come to the Newark ICE office for a check in.

75. The Defendants actions were *ultra vires* to the controlling statutes and regulations.

76. The Defendants therefore have violated the APA by taking action that is "not in accordance with the law" as described in 5 U.S.C. § 702(A)(2) and was "without observance of procedures required by law," under 5 U.S.C. § 706(2)(D).

77. As long as the Defendants' unlawful detention is permitted to stand, the Plaintiff will continue to suffer physical, emotional and financial harm.

COUNT TWO
Violation of the Fourth Amendment – Unlawful Seizure
As to All Defendants

78. Plaintiff incorporates paragraphs 1 through 77 as if fully stated herein.

79. Longstanding U.S. Supreme Court precedent establishes that "[t]he Fourth Amendment applies to all seizures of the person, including seizures that involve only a brief detention short of traditional arrest," and those performed by immigration officials. *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975).

80. A seizure occurs under the Fourth Amendment "when there is a governmental termination of freedom of movement through means intentionally applied." *See Scott v. Harris,* 550 U.S. 372, 381 (2007).

81. To determine whether there has been a "show of authority," the Court must use an objective test of whether the officer's words and actions would have conveyed to a reasonable person an order to restrict his movement. *See California v. Hodari D.*, 499 U.S. 621, 628 (1991).

82. "[T]he Fourth Amendment requires that the seizure be 'reasonable.'" *Brignoni-Ponce,* 422 U.S. at 878. "[T]he reasonableness of such seizures depends on a balance between the public interest and the individual's right to personal security free from arbitrary interference by law officers." *Id.*

83. Where an "excessive force claim arises in the context of an arrest or investigatory stop of a free citizen, it is most properly characterized as one invoking the protections of the Fourth Amendment." *Graham v. Connor*, 490 U.S. 386, 395 (1989).

84. The Fourth Amendment's prohibition against unreasonable seizures "depends not only on when [the seizure] is made, but also on how it is carried out." *Id.*

85. The authority of federal immigration officers is set forth, in relevant part, in 8 U.S.C. § 1357. Under this authority, immigration officials may only make a warrantless arrest if they have "*reason to believe* that the alien so arrested is in the United States in violation of any [immigration] law or regulation *and* is likely to escape before a warrant can be obtained for his arrest. 8 U.S.C. § 1357(a)(2)(emphasis added).

86. Courts have consistently read that the "reason to believe" phrase in § 1357 must be in read in light of constitutional standards, so that there must be probable cause. *See, ie, Brignoni-Ponce*, 422 U.S. at 881-82.

87. The Plaintiff and all witnesses believe that it was a robbery and kidnapping.

88. The Defendants moved their cars to block the Plaintiff's vehicle on all sides and prevent the Plaintiff from leaving, effectuating a seizure of the Plaintiff before they approached him, identified themselves, or otherwise complied with their regulatory requirements.

89. The Defendants failed to identify themselves, ordered Plaintiff to leave the vehicle, and broke the window of his van to pull him out when Plaintiff reasonably did not comply

Defendants' demands, as he had no means or manner of knowing that he was dealing with any law enforcement.

90. Under the circumstances, any properly trained officer would have recognized that Plaintiff posed no threat of violence or risk of flight.

91. There were no articulable facts to establish probable cause that Plaintiff would flee apprehension before federal officials could obtain not only a judicial warrant, but even an administrative warrant.

92. The arresting officers lacked probable cause to seize the Plaintiff and to use excessive force against the Plaintiff in the process of doing so, putting him in apprehension for his life and safety without identifying themselves.

93. Defendants have a policy, pattern and practice of making arrests without any warrant without marking an individualized determination of flight risk, in a manner that violates the Fourth Amendment rights of Plaintiff and places individuals such as the Plaintiff in apprehension of excessive use of force. They have no mechanism for ensuring compliance with the regulatory limits of agents' and officers' warrantless arrest authority and do not provided guidance to agents and offices on how to make arrests that comport with the requirements of the law and Constitution of the United States.

94. Defendants' actions violated the Fourth Amendment rights of the Plaintiff to be free from unreasonable seizure and free from excessive use of force.

95. As a result of the Defendants' violations of the Plaintiff's Fourth Amendment rights, Plaintiff has suffered, is suffering, and will continue to suffer physical, emotional and financial harm.

COUNT THREE

Violation of Fifth Amendment – Substantive Due Process
As to All Defendants

96. Plaintiff incorporates paragraphs 1 through 95 as if fully stated herein.

97. Non-citizens who are physically present in the United States are guaranteed the protections of the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary or permanent.").

98. The Due Process Clause is intended to prevent government officials "from abusing [their] power." *Cnty. of Sacramento v. Lewis,* 523 U.S. 833, 840 (1998)(citations omitted).

99. "[T]he touchstone of due process is protection of the individual against arbitrary action of government" and "the exercise of power without any reasonable justification in the service of a legitimate governmental objective." *Id.* at 845-46.

100. Due process also forbids governmental conduct that "shocks the conscience." *Rochin v. California*, 342 U.S. 165, 172 (1952). Such conduct is "offensive to human dignity." *Id.* at 174.

101. The unlawful seizure and detention of Plaintiff violates his right to substantive due process protected by the Fifth Amendment, as he has been detained without lawful authority, infringing on his fundamental right to liberty and his Fourth Amendment rights to freedom from unreasonable seizure.

102. The Defendants surrounded Plaintiff's vehicle with several of their own vehicles, approached and beat on the window, demanding the Plaintiff get out of the car without identifying themselves, without stating why they were there, and broke the window, pulling him out and away from the van.

103. The Defendants have no reasonable cause to detain the Plaintiff, who has not been arrested, has not evaded arrest, has not been charged with any criminal activity, and who has been advocating for the adjudication of his immigration applications in the Immigration Court and had a merits hearing scheduled.

104. The continued detention of Plaintiff violates his right to due process, as a continuing violation of his right to freedom from abuse of power, from excessive use of force, and from unreasonable seizure in violation of the law.

105. As a result of the Defendants' violations of the Plaintiff's Fourth Amendment rights, Plaintiff has suffered, is suffering, and will continue to suffer physical, emotional and financial harm.

COUNT FOUR
Violation of Fifth Amendment – Access to Counsel
As to All Defendants

106. Plaintiff incorporates paragraphs 1 through 105 as if fully stated herein.

107. Plaintiff has the right to hire and consult with the attorney of his choice at his own expense.

108. The Immigration and Nationality Act (INA) guarantees noncitizens the right to counsel in connection with inadmissibility and deportability proceedings. 8 U.S.C. § 1362; *Chlomos v. United States Dept. of Justice*, 516 F.2d 310, 313-14 (3d Cir. 1975).

109. An alien's right to counsel is violated where there is "undue curtailment of the privilege of representation." *Id.,* at 311; *see also Ponce-Leiva v. Ashcroft*, 331 F.3d 369, 374 (3d Cir. 2003).

110. Due process requires that detainees have adequate opportunities to obtain counsel and to visit and communicate with counsel once counsel is retained. *See, ie, Id.*

111. Defendants have engaged in a policy, pattern and practice of refusing and failing to schedule time and place for detained individuals to speak with their chosen counsel on a secure line.

112. This lack of access to counsel has severe consequences, including depriving the Plaintiff of the right to speak freely to his attorney with the requisite attorney-client privileges, to obtain the advice and counsel of his attorney, and to receive information to be apprised of the state of his proceedings.

113. Defendants' actions of refusing to allow Plaintiff to speak to his attorney forces him to interact with federal immigration officials without the benefit of legal advice even though it is readily available.

114. Defendants' actions violate his right to due process, and his right to have a fair trial.

115. As a result of the Defendants' violations of the Plaintiff's Fifth Amendment rights to access to counsel, Plaintiff has suffered, is suffering, and will continue to suffer physical, emotional and financial harm.

PRAYER FOR RELIEF

Wherefore, Plaintiff prays that this Court grant the following relief:

(1) Issue a Writ of Habeas Corpus requiring Defendants to release Plaintiff from ICE custody immediately;

(2) Declare that Defendants' detention of Plaintiff is unauthorized by statute and contrary to law and the U.S. Constitution;

(3) If Plaintiffs prevail, they will seek costs under the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412. Accordingly, Plaintiffs respectfully request the Court award reasonable costs and attorneys' fees; including, but not limited

to, reasonable costs and attorneys' fees available under the Equal Access to Justice Act; and

(4) Grant any other such relief as this Court may deem just and proper

Dated: August 8, 2025

Respectfully submitted,

s/ Danielle Fackenthal

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Pro Hac Vice Admission Pending

VERIFICATION

I, Danielle Fackenthal, state the following under penalty of perjury:

1. I am an attorney and owner of Fackenthal Law, P.C. which is filing the foregoing Petition for Writ of Habeas Corpus as local counsel on behalf of Plaintiff and his attorney, Julie A. Goldberg, who is concurrently seeking pro hac vice admission.

2. I have review the evidence and the facts stated in this Petition are true and correct to the best of my information, knowledge, and belief.

Dated: August 8, 2025

s/ Danielle Fackenthal
Danielle Fackenthal