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DETAINED-DELANEY HALL

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JORGE BARRIOS,)
 A )
 Petitioner,)
v.)
PAM BONDI,)
Attorney General of the)
United States of America, and,)
KRISTI NOEM,)
Secretary of the Department of)
Homeland Security, (DHS) and,)
TODD LYONS,)
Acting Director,)
United States Immigration and)
Customs Enforcement (ICE), and,)
LUIS SOTO,)
Director,)
Delaney Hall Detention Facility,)
 Respondents.)

Civil Action No.

Hon.

VERIFIED HABEAS CORPUS PETITION

INTRODUCTION

1. The Petitioner, a 64-year-old male native and citizen of Guatemala who has been detained at the Delaney Hall Detention Facility since his arrest by ICE Friday, August 1, 2025, and is about to be removed out of the jurisdiction today, hereby petitions the U.S. District Court to declare his detention unlawful and stay his

removal outside of the New Jersey jurisdiction. The Petitioner has a Motion to Reopen pending with BIA since July 30, 2025 with a Joint Motion to Reopen Removal Proceedings in Order to Adjust Status signed by DHS Counsel on August 7, 2018 effectively guaranteeing that his motion to reopen will be granted. Nonetheless, Respondents have unlawfully detained him and seek to remove him from the U.S. Thus, Petitioner petitions this Court for an order declaring his detention unlawful because his detention is in no way related to his removal since Respondent DHS has already agreed to reopen his removal proceedings.

JURISDICTION

2. This action arises under Customary International Law, the United States Constitution and the Immigration and Nationality Act, 8 U.S.C. §§ 1101 et seq.. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241 et. seq., and Art. I & 9, Clause 2 of the United States Constitution (Suspension Clause). Petitioner is detained at the Delaney Hall Detention Center, New Jersey under the authority of the United States in violation of the Constitution and laws of the United States.

VENUE

3. Venue lies in this Court because Petitioner is detained at the Delaney Hall Detention Center in Newark, New Jersey.

PARTIES

4. Petitioner is a 64-year-old male, citizen of Guatemala who has been detained at the Delaney Hall Detention Facility since August 1, 2025. He seeks issuance of a writ of habeas corpus.

5. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity she is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.
6. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security the agency in charge of administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.
7. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE) the department within the Department of Homeland Security and in this capacity he is responsible for administering and enforcing the immigration laws in New Jersey and is Petitioner's legal custodian.
8. Respondent Luis Soto is sued in his official capacity as the Director of the Delaney Hall Detention Facility and in this capacity he is the Petitioner's actual physical custodian.

FACTS

9. Petitioner, Jorge Barrios is a 64-year-old male, native and citizen of Guatemala who entered the United States on a B1/B2 in June 1991, with his wife, Reyna Barrios, and has not left since his arrival.
10. The Petitioner and his wife promptly filed asylum and were granted Voluntary Departure in 1998.

11. ICE/DHS granted several extensions of the Voluntary Departure due to on-going medical issues for the Petitioner and his wife so they could continue their treatments in the United States.
12. The Petitioner is a devoted husband and father of three (3) young daughters who were born in the United States in 1991, 1995, 1998, respectively.
13. In 2012, an I-130 Petition was filed by the eldest USC daughter, Reyna A. Barrios, for bother parents and in 2013 it was approved.
14. Accordingly, a Joint Motion to Reopen was signed by ICE/DHS in 2018. See Exhibit A. Joint Motion to Reopen signed by Respondent's BIA Counsel and DHS Attorney.
15. Petitioner and his wife qualify to adjust status once the Motion to Reopen is granted. Joint Motions are routinely granted by the BIA.
16. Based on these circumstances, the Respondent, through co-counsel, filed a motion to reopen and remand from the Board of Immigration Appeals.
17. Upon information and belief, this Joint Motion has been pending with the BIA since July 30, 2025.
18. However, on August 1, 2025, ICE arrested the Petitioner during a ICE check-in.
19. On Friday, August 8, 2025, Petitioner, through counsel, filed the Application for a Stay of Removal with the Respondent, ICE, with proof that the Respondent's case was pending with BIA and that his detention and potential removal were unlawful since there was a stipulation to reopen but ICE has continued to detain the Petitioner and now seeks to remove him from this jurisdiction and potentially from the U.S.

20. Nonetheless, this morning, Petitioner informed instant counsel that his account has been closed at the jail and that he is scheduled to be removed to Louisiana.
21. The Petitioner has no criminal record.
22. The Petitioner's proceedings (motion to reopen) are pending before the BIA.
23. The Petitioner has no warrants or negative criminal history that would change circumstance to warrant his arrest and removal outside of the New Jersey jurisdiction.
24. Petitioner has exhausted all administrative remedies. He has notified ICE that his stipulated motion to reopen was filed and is pending with BIA and his detention is premature and unlawful but Respondents nonetheless seek to continue to detain him and remove him from the U.S.
25. Petitioner's removal from the United States cannot be effectuated in the reasonably foreseeable future given there is consent to reopen removal proceedings. Absent judicial review of his custody claim, Petitioner will suffer irreparable injury by being deprived of his physical liberty. He seeks the only avenue of judicial review available to him, habeas review.

COUNT I

26. The allegations contained in paragraphs 1 through 25 above are repeated and realleged as though fully set forth herein. Petitioner's continued detention violates the Due Process clause of the United States Constitution because his detention is not related to his removal given DHS's stipulation to reopen his removal order.

COUNT II

27. The allegations contained in paragraphs 1 through 25 are repeated and realleged as though fully set forth herein. Petitioner's detention is not authorized by the Immigration and Nationality Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court:

1. Issue a Writ of Habeas Corpus directed to Respondents requiring them to immediately release the Petitioner from custody absent a showing that his detention is related to his actual removal from the US given that DHS has stipulated to reopen his removal proceedings.
2. Award Petitioner costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.
3. Grant any other and further relief that this Court may deem necessary and proper.

s/ Regis Fernandez
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Attorney for Petitioner

Dated: August 29, 2025

VERIFICATION

I, Jorge Barrios, declare under penalty of perjury in accordance with 28 U.S.C. § 1746 as follows:

1. I am the plaintiff-petitioner in this matter and am personally familiar with the facts of my case;
2. I have read the allegations contained in the foregoing Complaint and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.

Executed on August 29, 2025

s/ Jorge Barrios
JORGE BARRIOS

VERIFICATION BY COUNSEL

I, Regis Fernandez, declare under penalty of perjury in accordance with 28 U.S.C.

§ 1746 as follows:

1. I am the attorney for plaintiff-petitioner in this matter and am personally familiar with the facts of her case;
2. I have read the allegations contained in the foregoing Complaint and to the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.
3. I have also reviewed the documents attached to this habeas petition and confirm that all the facts or allegations ascertained therein are true and correct to the best of my knowledge.

Executed on August 29, 2025

s/ Regis Fernandez
REGIS FERNANDEZ, ESQ.

EXHIBITS

A. Joint Motion to Reopen Signed by DHS and Respondent's BIA Counsel

A

EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
NEWARK, NEW JERSEY

IN THE MATTER OF

BARRIOS, Jorge : IN REMOVAL PROCEEDINGS

A 

BARRIOS, Reyna : IN REMOVAL PROCEEDINGS

A 

JOINT MOTION TO REOPEN REMOVAL PROCEEDINGS
IN ORDER TO ADJUST STATUS

Pursuant to the provisions of 8 C.F.R. § 3.23(b)(4)(iv) and 8 C.F.R. § 3.43, Respondent Jorge and Reyna Barrios, joined by the Office of the Chief Counsel, request that these proceedings be reopened so that Respondents can adjust their status pursuant to an approved petition filed by their U.S. citizen daughter. Jorge and Reyna Barrios both entered the United States with B-2 visas, were inspected, and applied for asylum with USCIS and then defensively. See Exhibits A1 and A2, copies of passports and I-94 indicating inspection and lawful entry.

Although the IJ found respondents credible in their testimony, on 9/23/1998, the IJ denied their claim based on the lack of a particular social group. The Board of Immigration Appeals dismissed the appeal July 5, 2002. Through her former employer, another community non-profit agency, undersigned represented the respondents in their asylum case. Both Jorge Barrios and Reyna Barrios had accepted voluntary departure in the alternative and those VD orders automatically became orders of removal when they failed to depart. At that time their U.S. citizen daughters were of tender age and they received an extension from EOR/ICE.

In addition, Ms. Barrios was experiencing symptoms of what developed into rheumatoid arthritis and required medical treatment. Copies of treatment schedules are attached as Exhibit C.

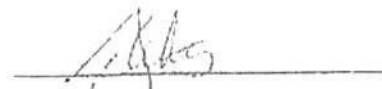
When the oldest daughter Reyna Aurora turned 21, she filed family petitions for her parents.. Attached are copies of the Approval Notice of the I-130 applications. See Group Exhibit F 1-2 They have been compliant with IRS requirements and have filed their taxes in a timely and honest fashion.

The oldest daughter, Reyna Aurora, the petitioner for her parents, is now a police officer for the Township of Hillside.

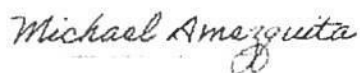
The parents who are requesting that the Department reopen their case are now both in their 60s and have been in the United States since 1991. They have never been arrested.

In light of the foregoing, Respondents and the Office of the Chief Counsel respectfully request that the Board reopen their cases to permit them to adjust their status to that of Lawful Permanent Residence. In 2018, Respondents each paid the required Motion to Reopen fee (\$110.00).. Respondents request that the Department join to reopen their case as a matter of discretion. See *In re L-O-G-*, Int. Dec. 3281 at 3 (BIA 1996). Both Respondent and the Office of the Chief Counsel agree that the Chief Counsel reserves the right to challenge the merits of the application for adjustment of status at the time of the hearing in this matter.

Respectfully Submitted,



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