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DETAINED AT IAH POLK

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS**

CRISTIAN ANDRES PENUELA CARLOS,
A 245 044 286
Petitioner,

v.

PAMELA BONDI,
Attorney General of the United States, and

KRISTI NOEM,
Secretary of the Department of
Homeland Security, (DHS) and,

TODD LYONS,
Acting Director of Immigration &
Customs Enforcement, (ICE), and

ALEXANDER SANCHEZ,
Warden of IAH Detention Center

Respondents.

Civil Action No.
9:25-cv-249

Hon.

ORAL ARGUMENT
REQUESTED

VERIFIED HABEAS CORPUS PETITION

INTRODUCTION

1. The Petitioner is a 30 year old male, native and citizen of Colombia who has resided in New Jersey with his two children with his long time partner for over two years. Petitioner was injured at the hospital awaiting the birth of his second child in 07/2024 leading to severe injuries, including aneurysm and chronic back pain. In 05/2025, Petitioner underwent spinal surgery. He was arrested later the same month and charged with domestic violence, which was soon dismissed and expunged within a matter of weeks. However, the arrest by state authorities led to his detention by Immigration & Customs Enforcement (“ICE”).
2. Since 05/2025, Petitioner has been detained by ICE. He has been detained at the IAH Detention Center since 07/2025. Petitioner has not had any post operative appointments with his surgeon or a doctor, and has developed an infection at the surgical site on his back, according to Dr. Norma Bowe, his consulting physician.
3. His surgical sutures from his 05/01/2025 spinal surgery remain embedded in his back. ICE never scheduled a post operative appointment to review his sutures or other basic medical care. The sutures have scabbed over. Petitioner has suffered debilitating headaches and other symptoms that could lead to another aneurysm. His doctor states plainly that an untreated aneurysm can lead to death.
4. Petitioner’s removal proceedings remain pending before the immigration court (“EOIR”) in Conroe, Texas, and his next hearing is 09/18/2025. He is not

subject to an order of removal, and is applying for asylum and other protection relief. His bond request with EOIR was denied for lack of jurisdiction, and that matter was appealed to the Board of Immigration Appeals (“BIA”). The BIA recently issued a precedential decision precluding Petitioner from succeeding on his appeal. Petitioner has also sought humanitarian parole and demanded adequate medical treatment from ICE; the agency’s response was not a surgical followup, not removal of his sutures, not pain therapy– merely six weeks of physical therapy.

5. Absent an order from this Court, Petitioner will continue to remain in detention unlawfully, at grave risk of suffering another aneurysm or other life threatening injury. Again, his surgical sutures from over four months ago are still embedded in his back, placing him at dire risk of having them infected and suffering another aneurysm, which could be deadly. Physical therapy for six weeks is woefully inadequate.

6. Petitioner asks the Court to find that Defendants have unlawfully detained him, and order his immediate release from custody. His family, church, and medical team all desperately await his return before it is too late.

CUSTODY

7. Petitioner is in the physical custody of Respondents and the Department of Homeland Security, U.S. Immigration & Customs Enforcement. Petitioner is currently at the IAH Detention Center in Polk County, Texas. ICE has contracted with IAH to detain individuals in the immigration custody of ICE such as Petitioner. The Petitioner is under the direct control of the Respondents and their agents, and the immediate custodian is the Warden of IAH, who is a named party in this action.

JURISDICTION

8. This action arises under the Constitution of the United States, and the Immigration & Nationality Act (“INA”), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. §701 et seq.

9. This Court has jurisdiction under 28 U.S.C. §2241; Art. I §9, cl. 2 of the United States Constitution (“Suspension Clause”); 28 U.S.C. §1331, as the Petitioner is presently in custody under color of the authority of the United States and such custody is in violation of the Constitution, laws, or treaties of the United States, and the Fifth Amendment of the United States Constitution.

10. This Court may grant relief pursuant to 28 U.S.C. §2241, 5 U.S.C. §702, and the All Writs Act, 28 U.S.C. §1651. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act) to grant injunctive and declaratory relief.

VENUE

11. Venue is proper and lies in this United States District Court for the Eastern District of Texas because a substantial part of the events or omissions giving rise to the claim arose in this judicial district. *See* 28 U.S.C. §1391(e), and 28 U.S.C. §2241, et seq. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Eastern District of Texas which is the judicial district in which Petitioner resides and is currently in immigration custody. The Petitioner is in immigration custody at IAH Detention Center in Livingston, Texas.

PARTIES

12. Petitioner is a 30 year old male, native and citizen of Colombia who is detained at IAH Detention Center in Livingston, Texas. He seeks a writ of habeas corpus due to his unlawful detention and the very real possibility of his death should his detention continue.

13. 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.

14. Respondent Kristi Noem is sued in her official capacity as Secretary of DHS, the agency in charge of administering and enforcing the immigration laws in Texas and is the Petitioner's legal custodian.

15. Respondent Todd Lyons is sued in his official capacity as the Acting Director of ICE, the department within DHS and in this capacity he is responsible for administering and enforcing the immigration laws in Texas and is the Petitioner's legal custodian.

16. Respondent Alexander Sanchez is sued in his official capacity as Warden of IAH Detention Center in Livingston, Texas, and in this capacity he is the Petitioner's actual physical custodian.

FACTS

17. The Petitioner is a 30 year old male, native and citizen of Colombia who has lived in United States for over two years, since 07/2023. Exhibit 2A, 8. Petitioner has resided in New Jersey with his two children and their mother, his long time partner. Exhibit 3AA. While at the hospital with his partner for the birth of their second child in 07/2024, the ceiling collapsed on Petitioner. Exhibit 2M. He suffered several severe and life threatening injuries since then, including aneurysm and chronic back pain. Exhibits 2K - 2U.

18. On 05/01/2025, Petitioner underwent spinal surgery. Exhibit 2Q. He was arrested later the same month and charged with domestic violence, which was soon dismissed and expunged within a matter of weeks. Exhibit 2V. However, his arrest by state authorities led to his detention by Immigration & Customs Enforcement ("ICE"). Exhibit 10.

19. Since 05/2025, Petitioner has been detained by ICE. Exhibit 1. He has been detained at the IAH Detention Center since 07/2025. Exhibit 10. While in detention, he has been given the bare minimum in terms of medical care. Exhibits 2K, 17, 20, and 21. Petitioner has not had any post operative appointments with his surgeon or a doctor, and has developed an infection at the surgical site on his back. Exhibit 2K.

20. His surgical sutures from his 05/01/2025 spinal surgery are embedded in his back. Exhibit 2K. Photos of the infected scars are included at Exhibit 2W. They were scheduled to be taken out by his physician at a post operative appointment; ICE never sent him to a doctor to have that done. Exhibit 2K. The sutures have scabbed over. Exhibit 2K, 2W. Petitioner has suffered debilitating headaches and other symptoms that could lead to another aneurysm. Exhibit 2K.

21. According to Dr. Norma Bowe, a consulting physician for Petitioner, post spinal surgery, “[I]n most cases, patients receive pain management, infection assessment, physical therapy, and intensive followup.” *Id.* at 51. “Due to his [detention by ICE] he missed critical follow-up with his surgeon and has been subjected to an increased risk of serious infection. Infections in the spine can lead to multi-organ failure, sepsis, and death.” *Id.*

22. Dr. Bowe further notes “because of his prolonged detention and complete lack of health care, Mr. Penuela has developed an infection in his surgical site... Upon review of his medical records, I have grave concerns about an aneurysm at the base of his spine.” *Id.* The doctor notes rather grimly yet simply that “[U]ntreated aneurysm can result in death.” *Id.*

23. Petitioner’s removal proceedings remain pending before the immigration court (“EOIR”) in Conroe, Texas, and his next hearing is 09/18/2025. Exhibit 13. He is not subject to an order of removal. *Id.* His bond request with EOIR was

denied for lack of jurisdiction, and that matter was appealed to the Board of Immigration Appeals (“BIA”). Exhibits 5, 6, and 7. The BIA recently issued a precedential decision precluding Petitioner from succeeding on his appeal. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

24. Petitioner also sought humanitarian parole and demanded adequate medical treatment from ICE in 08/2025 and 09/2025; the agency’s response was not a surgical followup, not removal of his sutures, not pain therapy—just six weeks of physical therapy. Exhibits 14 - 22. The Performance-Based National Detention Standards 2011 (“PBNDS”) govern ICE actions regarding immigration detention and removal enforcement. ICE’s failure to provide adequate care for Petitioner is in violation of the PBNDS.

25. Petitioner has exhausted all his administrative remedies. His BIA bond appeal is precluded by a new precedential decision and ICE has refused to release him or give him adequate medical care.

26. Petitioner has no open warrants or negative criminal history that would change circumstances to warrant his arrest and removal outside of the Eastern District Texas District Court.

27. Petitioner’s removal from United States cannot be effectuated in the reasonably foreseeable future. Absent judicial review of his custody claim, Petitioner will suffer irreparable injury by being deprived of his physical liberty

and quite possibly his life. He seeks the only avenue of judicial review available to him, habeas review.

28. Absent an order from this Court, Petitioner will continue to remain in detention unlawfully, at grave risk of suffering another aneurysm or other life threatening injury. His infected surgical sutures from over four months ago are still embedded in his back, placing him at dire risk of having them infected and suffering another aneurysm, which could be deadly.

EXHAUSTION OF REMEDIES

29. Petitioner has exhausted all practicable administrative remedies. Petitioner has sought to challenge his detention before EOIR and the BIA, requested humanitarian parole from ICE, and requested ICE give him adequate medical care. All of these remedies are either legally precluded, ignored, or were inadequately addressed by ICE.

30. Petitioner is precluded from prevailing on his EOIR bond appeal with the BIA following the BIA's recent precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). His motion for bond redetermination was denied on 08/19/2025. Petitioner timely appealed to the BIA on 08/28/2025, which remains pending. However, subsequent to filing the appeal, the BIA issued *Yajure Hurtado* on 09/02/2025. That decision precludes Petitioner from obtaining bond before EOIR, improperly finding Immigration Judges lack jurisdiction to issue bonds because Petitioner entered United States without being inspected and admitted or paroled. *Id.*

31. Petitioner through Counsel requested humanitarian parole from ICE via email on 08/23/2025, 08/28/2025, and 09/02/2025. Exhibits 14, 18, and 19. Likewise, Petitioner requested adequate medical care from ICE via email on 08/28/2025, 09/01/2025, and 09/03/2025. Exhibits 15, 16, and 22.

32. In response, ICE sent three emails to Counsel on 09/01/2025, 09/02/2025, and 09/03/2025. Exhibits 17, 20, and 21. ICE has not granted him humanitarian parole, nor will Petitioner have his surgical sutures removed or have access to a neurologist or other physician. Instead, ICE has granted Petitioner six weeks of physical therapy two days a week starting 09/02/2025. Exhibit 21. Physical therapy will not alleviate the severe and life-threatening medical issues Petitioner faces.

**COUNT I:
VIOLATION OF FIFTH AMENDMENT
RIGHT TO SUBSTANTIVE DUE PROCESS**

33. The allegations contained in paragraphs 1 through 32 above are repeated and realleged as though fully set forth herein.

34. Petitioner's detention violates the Due Process clause of the United States Constitution. Petitioner has substantive due process rights to receive adequate medical care while in ICE custody. He has infected surgical sutures in his spine, placing him at higher risk for aneurysm and quite possibly death.

35. The Fifth Amendment of the Constitution guarantees civil detainees like Petitioner may not be subject to conditions of confinement or denial of medical care that "amount to punishment." *Bell v. Wolfish*, 441 U.S. 520, 535 (1979).

36. The Defendants have violated and continue to violate Petitioner's substantive due process rights by detaining him and preventing him from accessing necessary and adequate medical care. *Helling v. McKinney*, 509 U.S. 25, 32 (1993)

**COUNT II:
VIOLATION OF FIFTH AMENDMENT
RIGHT TO PROCEDURAL DUE PROCESS**

37. The allegations contained in paragraphs 1 through 32 are repeated and realleged as though fully set forth herein.

38. Petitioner's detention by Defendants violates his procedural due process rights under the Due Process Clause of the Fifth Amendment. The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (internal citations omitted). Procedural due process "imposes constraints on government decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." *Id.* at 332.

39. Defendants have unlawfully applied provisions of the INA to Petitioner by failing to grant Petitioner a meaningful bond hearing, refusing or ignoring his requests for humanitarian parole, and in failing to timely provide medical care.

**COUNT III:
VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT**

40. The allegations contained in paragraphs 1 through 32 are repeated and realleged as though fully set forth herein.

41. Petitioner's detention by Defendants violates the APA because agency actions by EOIR, ICE, and presumably the BIA are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

Where a court finds agency action to violate the APA, the court shall "hold unlawful and set aside" the agency action. *Id.* Where the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes, such that the agencies are bound to follow their own "existing valid regulations." *United States ex rel. Accardi Shaugnessy*, 347 U.S. 260, 266, 268 (1954).

42. EOIR and presumably the BIA have unlawfully applied their regulations to deny Petitioner a bond hearing. ICE continues to violate the PBNDS by failing to provide adequate medical care. ICE further continues to violate PBNDS by refusing to grant him humanitarian parole.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus directed to Respondents requiring them to immediately release Petitioner from custody;
3. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
4. Grant any other and further relief this Honorable Court deems just and proper;
5. Award Petitioner costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

Respectfully Submitted,

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Dated: 09/15/2025

VERIFICATION

I, Cristian Andres Penuela Carlos, 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 was read the allegations contained in the foregoing Complaint in Spanish, the language I speak and understand the best.
3. To the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.

Executed on 09/15/2025

/s/ Cristian Andres Penuela Carlos
CRISTIAN ANDRES PENUELA CARLOS
Petitioner

VERIFICATION BY COUNSEL

I, Jason Scott Camilo, 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 this 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 they are true copies of the originals and that all the facts or allegations ascertained therein are true and correct to the best of my knowledge and experience.

Executed on 09/15/2025

/s/ Jason Scott Camilo, Esq.
JASON SCOTT CAMILO, ESQ.,
Attorney for Petitioner