

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

CRISTIAN ROSALES GRANDEZ,

Petitioner,

-vs-

ALEXANDER CABEZAS, in his official capacity as Acting Field Office Director for the Newark Field Office of Immigration and Customs Enforcement;

KRISTI NOEM, in her official capacity as Secretary of Homeland Security; and

PAM BONDI, in her official capacity as Attorney General of the United States,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

**INTRODUCTION**

1. Petitioner Cristian Rosales Grandez (“Petitioner”) is a citizen of Peru who has been detained by U.S. Immigration and Customs Enforcement (“ICE”) since October 22, 2025. He was detained after appearing for a routine ICE check-in at 26 Federal Plaza, New York, New York. At the time of his detention, Petitioner had no criminal history whatsoever, had been fully compliant with all immigration supervision requirements since his release under 8 U.S.C. § 1226 had successfully maintained community ties and stable housing in New York City throughout his period of liberty, and had a meritorious pending asylum case before the New York Immigration Court with an Individual Hearing scheduled for February 19, 2026. See Exhibit A (Notice to Appear (Form I-862) and ICE Notice of Custody Determination, dated October 22, 2025).

2. Petitioner is currently detained at Delaney Hall Detention Facility, located at 451 Doremus Avenue, Newark, New Jersey 07105, under the jurisdiction of the Newark Field Office of ICE Enforcement and Removal Operations (“ERO”). The Detaining Officer of record is Officer E. Sandoval of the Elizabeth, NJ Sub-Office. His detention is arbitrary, unlawful, and violates the Due Process Clause of the Fifth Amendment, the Fourth Amendment's prohibition against unreasonable seizures, the statutory requirements of 8

U.S.C. § 1226(a), the Administrative Procedure Act ("APA"), and the principles of fundamental fairness embodied in the Constitution's Suspension Clause, Article I, Section 9, Clause 2. The detention also contravenes ICE's own prior individualized determination that community supervision was appropriate and represents a constructive denial of Petitioner's right to pursue his asylum claim.

3. Petitioner seeks a writ of habeas corpus ordering his immediate release from Delaney Hall Detention Facility, as his continued confinement lacks any individualized determination, serves no lawful purpose given his demonstrated reliability and lack of danger or flight risk, violates multiple constitutional and statutory protections, and is the product of an ICE enforcement campaign targeting asylum seekers and immigrants attending check-ins or court hearings without cause, notice, or consideration of individual circumstances. In the alternative, Petitioner requests an immediate custody redetermination hearing with full due process protections, including the right to present evidence and be represented by counsel.

## **PARTIES**

4. Petitioner Cristian Rosales Grandez is a citizen of Peru who resided in New York City prior to his detention on October 22, 2025. He entered the United States on or about December 17, 2022 seeking humanitarian protection from persecution in Peru and has an Individual Hearing scheduled for February 19, 2026 before Immigration Judge John DeCure via Webex, at the Varick Street Immigration Court in New York, NY. Petitioner has maintained this stable residence throughout his period of liberty and has established significant community ties in New York.

5. Respondent Alexander Cabezas is the Acting Field Office Director of ICE's Newark Field Office. He is responsible for decisions regarding detention and release of individuals held at Delaney Hall Detention Facility.

6. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS") and is responsible for enforcing and administering the immigration laws of the United States, including Petitioner's detention.

7. Respondent Pam Bondi is the Attorney General of the United States and oversees the Executive Office for Immigration Review ("EOIR"), which administers immigration court proceedings, including Petitioner's pending asylum case.

## **JURISDICTION AND VENUE**

8. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause), and 8 U.S.C. § 1252(e)(2) (preserving habeas jurisdiction to review constitutional claims and questions of law). While 8 U.S.C. § 1252(b)(9) channels certain immigration-related claims through the petition for review process, that provision does not divest this Court of habeas jurisdiction over challenges to the fact or duration of detention. Court may grant the requested habeas relief under 28 U.S.C. § 2241, and may grant ancillary declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202, the All Writs Act, 28 U.S.C. § 1651, and its inherent equitable powers to remedy constitutional violations and prevent mootness through transfer.

9. Venue is proper in the District of New Jersey because Petitioner is detained within this District at Delaney Hall Detention Facility, Newark, NJ. The immediate custodian, Acting Field Office Director Cabezas, resides in this District.

## **FACTUAL BACKGROUND**

10. Petitioner entered the United States on or about seeking asylum from persecution in Peru based on government persecution. His asylum claim is based on credible fear of persecution and presents substantial factual and legal grounds for relief. Upon entry, Petitioner was apprehended by immigration authorities near the border and was subsequently released under 8 U.S.C. § 1226 following an individualized custody determination by ICE. Petitioner was not paroled under 8 U.S.C. § 1182(d)(5) at the time of entry. Since his release under § 1226, Petitioner has been at liberty for approximately and has remained fully compliant with immigration supervision, reporting for all scheduled ICE check-ins and court appearances without exception. Petitioner has never missed a single appointment, has maintained consistent contact with ICE, and has proactively notified authorities of any changes to his contact information or circumstances.

11. On October 22, 2025, Petitioner appeared voluntarily and punctually for a regularly scheduled check-in at the ICE Office located at 26 Federal Plaza, New York, NY, as he had done without fail on all previous occasions. Without prior notice, warning, or explanation, and without conducting any individualized assessment of Petitioner's specific circumstances, ICE officers detained him and transferred him to Delaney Hall Detention Facility in Newark, NJ. When Petitioner inquired about the reason for his detention, officers informed him that “everyone like him” was being detained, explicitly indicating a blanket enforcement practice lacking any individualized review, legal basis,

or consideration of Petitioner's demonstrated reliability, lack of criminal history, or pending asylum proceedings.

12. Petitioner has never been charged or convicted of any crime—his criminal history is completely nonexistent. He poses no danger to the community or risk of flight, as demonstrated by his perfect compliance record since his release under § 1226. He has a pending asylum application and an Individual Hearing set for February 19, 2026 before Immigration Judge John DeCure. See Exhibit A. Petitioner's sustained liberty without incident and his continued engagement with immigration proceedings establish that community supervision, not detention, is appropriate.

### **STATEMENT OF EXHAUSTION AND LEGAL FRAMEWORK**

13. The Immigration and Nationality Act (“INA”) provides limited authority for civil immigration detention. Under 8 U.S.C. § 1226(a), the Secretary of Homeland Security "may" detain noncitizens pending removal proceedings, but only after making an individualized determination that detention is necessary to ensure appearance at removal proceedings or to protect public safety. This discretionary authority is constrained by constitutional due process requirements and cannot be exercised in an arbitrary or blanket fashion without consideration of individualized circumstances such as criminal history, compliance with supervision, community ties, and the strength of the underlying immigration claim. See *Rodriguez v. Robbins*, 715 F.3d 1127, 1138 (9th Cir. 2013) ("Section 1226(a)'s use of the word 'may' makes clear that [detention] authority is discretionary"), vacated on other grounds sub nom. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). Petitioner was released under § 1226 following his initial apprehension, demonstrating that ICE conducted an individualized custody determination and concluded that Petitioner did not require mandatory detention and could be safely supervised in the community. This prior determination is entitled to weight and creates a presumption in favor of continued supervision that cannot be arbitrarily reversed without changed circumstances, new information, or a reasoned explanation for the policy change

14. Detaining individuals at routine check-ins, without notice or individualized assessment, violates the Fifth Amendment’s guarantee of due process and exceeds the statutory limits of 8 U.S.C. § 1226(a). See *Demore v. Kim*, 538 U.S. 510, 531 (2003) (recognizing due process limitations on immigration detention).

15. Petitioner has exhausted all available administrative remedies, and further pursuit of administrative relief would be futile. Under *Matter of Hurtado*, 23 I&N Dec. 179 (BIA 2001), immigration judges lack jurisdiction to conduct bond hearings for certain categories of detained individuals, including those subject to mandatory detention provisions. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c) because he has no criminal history and was previously released under the discretionary

provisions of § 1226(a). Under the plain language of § 1226(c), mandatory detention applies only to noncitizens with specified criminal convictions, which Petitioner does not have. Despite Petitioner's clear eligibility for a bond hearing under § 1226(a), ICE has provided no bond hearing and has taken the position that Petitioner is not entitled to one, rendering administrative remedies futile.

ICE has provided no explanation for why Petitioner, who was previously released under § 1226 and maintained perfect compliance with zero criminal history, now requires detention. Given ICE's blanket detention policy as evidenced by the officers' statement that "everyone like him" was being detained, and the absence of any individualized assessment or changed circumstances, Petitioner has no meaningful opportunity to obtain a bond hearing through administrative channels that would consider his specific circumstances. The administrative process cannot remedy a detention that violates statutory and constitutional requirements from its inception. Administrative exhaustion would serve no purpose and would only prolong Petitioner's unlawful detention while he remains separated from his community and unable to adequately prepare his asylum case. The detention also prevents Petitioner from meeting with counsel to prepare his defense, gathering evidence and witnesses for his February 19, 2026 hearing, and maintaining the employment and housing that demonstrate his ties to the community. Each day of continued detention increases the practical harm to Petitioner's ability to prevail in his asylum case and undermines the individualized factors that support his release.

## **CLAIMS FOR RELIEF**

### **COUNT I – VIOLATION OF THE FIFTH AMENDMENT (DUE PROCESS)**

16. Petitioner's detention is arbitrary, capricious, and lacks any individualized determination as required by 8 U.S.C. § 1226(a) and constitutional due process. Despite Petitioner's sustained compliance with supervision complete absence of criminal history, and pending asylum proceedings, ICE detained him without notice, explanation, or any assessment of whether he poses a danger to the community or flight risk. ICE has failed to provide any hearing, written explanation of the detention decision, statement of reasons for reversing the prior release determination, or opportunity to present evidence demonstrating that community supervision remains appropriate. Petitioner received no notice that detention was being considered, no opportunity to present evidence of his compliance and community ties, and no explanation of what factors ICE considered or why the prior determination was incorrect. This complete absence of process violates both substantive due process—because the detention serves no legitimate government interest and is not narrowly tailored to any such interest—and procedural due process—because Petitioner received no meaningful opportunity to be heard before being deprived of his liberty. See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("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"). The detention is particularly arbitrary given that ICE previously determined, through an individualized assessment, that Petitioner could be safely supervised in the community under § 1226, and nothing has changed since that determination except ICE's adoption of a blanket detention policy. Indeed, the facts have become more favorable to Petitioner since his initial release: he has now demonstrated sustained compliance maintained stable housing and employment, and established deeper community ties. ICE's decision to detain him despite this favorable track record demonstrates that the agency is not engaged in individualized determinations but is instead implementing a categorical detention policy that fails to account for individual circumstances.

#### COUNT II – VIOLATION OF THE FOURTH AMENDMENT (UNREASONABLE SEIZURE)

17. ICE's arrest and continued detention of Petitioner during a routine check-in, without new factual basis, probable cause, or reasonable suspicion of changed circumstances, constitutes an unreasonable seizure in violation of the Fourth Amendment. See *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975) (Fourth Amendment protections apply to immigration enforcement); *Martinez-Fuerte*, 428 U.S. 543 (1976).

Petitioner had been released under § 1226 following ICE's individualized determination that he did not require detention, and he had been at liberty fully complying with all supervision requirements including check-ins and court appearances. ICE had no new information suggesting Petitioner posed a danger or flight risk, no evidence of any violation of supervision conditions, and no facts indicating changed circumstances that would justify reversing the prior release determination. Petitioner's complete lack of criminal history, his voluntary and punctual appearance for the October 22, 2025 check-in, and his established community ties and stable housing further demonstrate the absence of any legitimate basis for the seizure. The seizure is particularly unreasonable because it occurred during Petitioner's voluntary compliance with a government-mandated check-in, effectively punishing Petitioner for his cooperation with immigration authorities, creating a trap for individuals who faithfully comply with supervision requirements, and potentially chilling future compliance by similarly situated individuals who may reasonably fear detention rather than continued supervision despite their reliability.

#### COUNT III – VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (ARBITRARY AND CAPRICIOUS ACTION)

18. ICE's conduct constitutes an arbitrary and capricious agency action under 5 U.S.C. § 706(2)(A). ICE has failed to consider critical factors including: (1) Petitioner's initial release under 8 U.S.C. § 1226, demonstrating ICE's prior determination that detention was unnecessary; (2) Petitioner's sustained liberty and perfect compliance with supervision since release, with no violations of any kind; (3) Petitioner's complete lack of criminal history; (4) the absence of any new facts or circumstances justifying re-detention; and (5) Petitioner's pending asylum proceedings. ICE's blanket detention policy, as evidenced by officers' statement that "everyone like him" was being detained, represents a categorical approach that fails to account for individual circumstances, contradicts the agency's own prior individualized assessment, and violates the statutory mandate for case-by-case determinations under § 1226(a). The agency has provided no reasoned explanation for this policy change, no analysis of reliance interests created by the prior release determination, and no consideration of alternatives to detention despite Petitioner's demonstrated suitability for community supervision. See *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (agency action is arbitrary and capricious when the agency fails to consider important aspects of the problem or offers an explanation that runs counter to the evidence).

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted;
3. Declare that Petitioner's detention violates the Fifth and Fourth Amendments and the Administrative Procedure Act;
4. Issue a writ of habeas corpus ordering Petitioner's immediate release from custody at Delaney Hall Detention Facility;
5. Enjoin Respondents from transferring Petitioner outside the District of New Jersey during this proceeding;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
7. Grant such other relief as this Court deems just and proper.

Dated: October 24, 2025

Respectfully submitted,

*Lina Stillman*

/s/ Lina Stillman

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**VERIFICATION**

I, Lina Stillman, Esq., attorney for Petitioner Cristian Rosales Grandez, verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have discussed this Petition with Petitioner and/or persons acting on his behalf, and that the factual statements contained herein are true and correct to the best of my knowledge and belief.

*Lina Stillman*

/s/ Lina Stillman

Lina Stillman, Esq.

Date: October 24, 2025