IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

Luis Samuel TENE SISLEMA, Petitioner, v. Luis SOTO, Director of the Delaney Hall Detention Facility; John Tsoukaris, Director of the Newark Field Office of Immigration and Customs Enforcement; Kristi Noem, Secretary of the Department of Homeland Security; Pamela Bondi, Attorney General, Respondents.	Case No.: 25-cv-17204 **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF** Agency No.: A [redacted]

INTRODUCTION

1. Luis Samuel Tene Sislema, Petitioner, is a twenty-five-year-old from Ecuador. He entered the United States in 2019, though he did not have permission to do so. Undocumented, he took up residence in Brooklyn, New York, where he welcomed a United States citizen son. Like many undocumented immigrants, he found a job in construction. Until last month, he'd had no contact with any United States law enforcement official. Petitioner has committed no crimes in our country.

2. On October 24, 2025, Petitioner took the bus to work. When he and others deboarded, Immigration and Customs Enforcement ("ICE") agents were apparently waiting. They took Petitioner into custody, seemingly without a warrant or any form of individualized process whatsoever. Petitioner remains in ICE custody at the Delaney Hall Detention Facility in Newark, New Jersey. To date, ICE has not explained its decision to detain Petitioner.

3. Pursuant to 28 U.S.C. § 2243, Petitioner requests that the Court issue an Order to Show Cause directing the Government to file a return "within three days[,] unless for good cause

additional time, not exceeding twenty days, is allowed," setting forth the statutory basis for Petitioner's current detention.

4. If ICE cannot point to a warrant and justification for its unexplained decision to detain Petitioner, then his detention violates due process and he should be immediately released. At the absolute minimum, the Court should order that Petitioner be afforded a bond hearing before an immigration judge ("IJ"), at which ICE must establish that he is a danger or flight risk.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*

6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), and 28 U.S.C. 1331 (federal question).

7. This Court may order relief under the habeas statute, 28 U.S.C. § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*; and the All Writs Act, 28 U.S.C. § 1651.

VENUE

8. Venue is proper because Petitioner is detained, and his immediate custodian is located, in New Jersey, within the territorial jurisdiction of this Court.

PARTIES

9. Petitioner is an Ecuadoran national who has lived in the United States without authorization since 2019. At the time of his recent arrest by ICE, he was residing in Brooklyn, New York, and employed in construction.

10. Respondent Luis Soto is the Director, *i.e.*, warden, of the Delaney Hall Detention Facility in Newark, New Jersey. As such, he is Petitioner's immediate custodian.

11. John Tsoukaris is the Director of ICE's Newark Field Office. In his official capacity, he is charged with carrying out the functions of that office, including by making and overseeing decisions regarding immigration detention throughout New Jersey. He therefore has constructive custody over Petitioner, in that he can order his release from ICE custody.

12. Respondent Kristi Noem is the Secretary of DHS, which is ICE's parent agency. In her official capacity, she oversees and directs the activities of ICE, including its detention operations in New Jersey and elsewhere. She therefore has constructive custody of Petitioner, in that she can direct ICE to release him from custody.

13. Respondent Pamela Bondi is the Attorney General. In her official capacity, she is charged with making determinations as to removability, asylum eligibility, and immigration custody, all of which are binding on DHS and its components. She therefore has constructive custody of Petitioner, in that she has the capacity to compel ICE to release him.

STATEMENT OF FACTS

14. Arriving from Ecuador, a teenage Petitioner crossed the southern land border into the United States in 2019. He was not detected at that time, and until the time of his arrest had not had any interactions with law enforcement. He took up residence in Brooklyn, New York, and began working in construction. Petitioner has no criminal record in the United States, or for that matter Ecuador, or in any other country.

15. On October 24, 2025, as Petitioner got off the bus he took to work, he and others were stopped by a group of ICE agents, seemingly without individualized suspicion of any kind. He was taken into custody, on information and belief without warrant, and eventually transferred to the Delaney Hall Detention Facility, where he remains imprisoned at this time.

16. On information and belief, Petitioner has not received an individualized hearing before a neutral decisionmaker to assess whether his recent detention was warranted due to dangerousness or flight risk.

LEGAL BACKDROP

17. "[C]ivil immigration detention is typically justified only when a noncitizen presents a risk of flight or danger to the community." *J.A.E.M. v. Wofford*, No. 25 Civ. 1380 (KES), 2025 WL 3013377, at *3 (E.D. Cal. Oct. 27, 2025) (citing *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Padilla v. ICE*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023)). "A protected liberty interest may arise from a conditional release from physical restraint. Even when a statute allows the government to arrest and detain an individual, a protected liberty interest under the Due Process Clause may entitle the individual to procedural protections not found in the statute." *Id.* (citation omitted) (citing *Young v. Harper*, 520 U.S. 143, 147–49 (1997)). "Due process 'is a flexible concept that varies with the particular situation.' The procedural protections required in a given situation are evaluated using the *Mathews v. Eldridge* factors." *Id.* at *6 (quoting *Zinermon v. Burch*, 494 U.S. 113, 127 (1990), which in turn cites 424 U.S. 319, 335 (1976)).

18. Beginning in May of this year, ICE has pursued an aggressive new enforcement campaign targeting people who are in removal proceedings at their homes, places of business, and even as they attended mandatory immigration court hearings or other immigration appointments. Individuals have been arrested seemingly without regard to whether they have pending applications for asylum or other relief. This "coordinated operation" is "aimed at dramatically accelerating deportations."[1] These aggressive tactics appear to be motivated by the imposition of

[1] Arelis R. Hernández and Maria Sacchetti, "Immigrant Arrests at Courthouses Signal New Tactic in Trump's Deportation Push," *Washington Post* (May 23, 2025), *available at* www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/; *see*

a daily quota of 3,000 ICE arrests.[2] In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January.[3] The Supreme Court recently addressed ICE's apparent practice of "stopping individuals based solely on four factors: (1) their apparent race or ethnicity; (2) whether they spoke Spanish or English with an accent; (3) the type of location at which they were found (such as a car wash or bus stop); and (4) the type of job they appeared to work." *Noem v. Vasquez Perdomo*, No. 25A169, 2025 WL 2585637, at *5 (Sep. 8, 2025) (Sotomayor, J., dissenting from grant of stay).

19. At the same time, the Board of Immigration Appeals ("BIA") has advanced novel interpretations of the immigration detention statutes. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), it held for the first time that individuals who were paroled into the United States categorically remained subject to mandatory detention under section 235 of the INA, 8 U.S.C. § 1225, as opposed to discretionary detention under INA § 236, 8 U.S.C. § 1226, regardless of how much time had passed since their initial entry. Shortly thereafter, it expanded its mandatory § 1225 detention rule to cover *all* persons present in the United States without admission, irrespective of their time and manner of entry. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).[4]

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also Hamed Aleaziz, Luis Ferré-Sadurní, and Miriam Jordan, "How ICE is Seeking to Ramp Up Deportations Through Courthouse Arrests," *N.Y. Times* (May 30, 2025), *available at* www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html.

[2] Ted Hesson and Kristina Cooke, "ICE's Tactics Draw Criticism as it Triples Daily Arrest Targets," *Reuters* (Jun. 10, 2025), *available at* www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/.

[3] José Olivares and Will Craft, "ICE Arrests of Migrants with No Criminal History Surging under Trump," *The Guardian* (Jun. 14, 2025), *available at* www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures.

[4] Given the existence of these precedents, any attempt at administrative exhaustion would be futile. Absent contrary direction from this Court, no IJ may grant Petitioner bond, as they would be bound to apply *Yajure Hurtado*'s mandatory detention rule in his case.

20. "In recent months, many district courts across the country have grappled with the [] issue, and it appears that all but one of them has rejected [ICE's] position and concluded that an alien in Petitioner's situation (i.e., an alien who entered the United States without inspection, never formally applied for admission, and has been living in the United States for years or decades) is entitled to a bond hearing under § 1226(a)." *Echevarria v. Bondi*, No. 25 Civ. 3252 (DWL), 2025 WL 2821282, at *4 (D. Ariz. Oct. 3, 2025) (citing *Hasan v. Crawford*, 25 Civ. 1408 (LMB), 2025 WL 2682255, at *9 (E.D. Va. Sep. 19, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1261 (W.D. Wash. 2025); *Pizarro Reyes v. Raycraft*, No. 25 Civ. 12546 (RJW), 2025 WL 2609425, at *7 (E.D. Mich. Sep. 9, 2025); *Barrera v. Tindall*, No. 25 Civ. 541 (RGJ), 2025 WL 2690565, at *5 (W.D. Ky. Sep. 19, 2025); *Vazquez v. Feeley*, No. 25 Civ. 1542 (RFB), 2025 WL 2676082, at *16 (D. Nev. Sep. 17, 2025)). "The one apparent exception is *Chavez v. Noem*, which recently concluded that 'aliens present in the United States who have not been admitted' are, '[b]y the plain language of § 1225(a)(1), . . . applicants for admission and thus subject to the mandatory detention provisions of 'applicants for admission' under § 1225(b)(2).'" *Id.* (quoting No. 25 Civ. 2325 (CAB), 2025 WL 2730228, at *4 (S.D. Cal. Sep. 24, 2025)) (alterations in *Echevarria*).

21. Courts in this district have not bucked the overall trend. *See, e.g.*, *Zumba v. Bondi*, No. 25 Civ. 14626 (KSH), 2025 WL 2753496, at *9 (D.N.J. Sep. 26, 2025) ("Notably, this Court need not defer to the September 5, 2025 BIA decision, *Matter of Yajure Hurtado*, and its newly-minted interpretation of § 1225(b)(2)(A). The BIA decision relies on respondents' 'plain language' reading of §§ 1225(a)(1), (b)(2), which the Court rejects." (citations omitted)); *Bethancourt Soto v. Soto*, No. 25 Civ. 16200 (CPO), 2025 WL 2976572, at *7 (D.N.J. Oct. 22, 2025) ("The BIA's contrary conclusion in *Matter of Yajure Hurtado*, does not alter this result. This Court owes no deference to an agency interpretation that conflicts with the statute's unambiguous text." (citations

omitted)); *Lomeu v. Soto*, No. 25 Civ. 16589 (EP), 2025 WL 2981296, at *8 (D.N.J. Oct. 23, 2025) ("Respondents' interpretation of § 1225(b)(2)(A) is incompatible with the overall statutory scheme, which the Supreme Court in *Jennings* described as (1) deciding who may *enter* the country under § 1225(b); and (2) deciding who may *remain* in the country after entering under § 1226(a), (c). Respondents completely ignore the plain and longstanding distinction in U.S. immigration law between those noncitizens who are entering the country and those who remain after entering, focusing instead on the definitions of 'applicant for admission' and misreading a misreading of the statutory phrase 'seeking admission' to include the past-tense, an alien who already entered the country without inspection under § 1225." (citing *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018))); *Ayala Amaya v. Bondi*, No. 25 Civ. 16428 (ESK), 2025 WL 3033880, at *2 (D.N.J. Oct. 30, 2025) ("The vast majority of courts confronting this precise issue have rejected respondents' interpretation, and the BIA's interpretation in *Hurtado*, as contradictory to the plain text of § 1225. I am persuaded by the comprehensive reasoning of these courts and find that § 1226(a) applies to petitioner's detention." (citations omitted) (collecting cases)).

FIRST CLAIM FOR RELIEF
Violation of Section 236(a) of the INA, 8 U.S.C. § 1226(a)

22. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

23. The INA provides that "[*o*]*n a warrant issued by the Attorney General*, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a) (emphasis added). Thus, "the issuance of a warrant is a 'necessary condition' to justify discretionary detention under the statute." *Astudillo v. Hyde*, No. 25 Civ. 551 (JJM), 2025 WL 3035083, at *4 (D.R.I. Oct. 30, 2025) (quoting *Chogllo Chafla v. Scott*, No. 25 Civ. 438 (SDN), 2025 WL 2688541, at *11 (D. Me. Sep. 22, 2025)).

24. "Because the Government failed to obtain a warrant as required by statute, [Petitioner] may not be detained and must be immediately released." *Id.*; *accord Chiliquinga Yumbillo v. Stamper*, No. 25 Civ. 479 (SDN), 2025 WL 2783642, at *5 (D. Me. Sep. 30, 2025) (quoting *Chogllo Chafla*, *supra*); *J.A.C.P. v. Wofford*, No. 25 Civ. 1354 (KES), 2025 WL 3013328, at *8 (E.D. Cal. Oct. 27, 2025) (same).

SECOND CLAIM FOR RELIEF
Violation of Sections 235(b) and 236(a) of the INA, 8 U.S.C. §§ 1225(b) and 1226(a)

25. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

26. ICE has taken the position that individuals like Petitioner are subject to mandatory detention under 8 U.S.C. § 1225. *See Yajure Hurtado*, *supra*. Because "Respondents' interpretation of § 1225(b)(2)(A) is incompatible with the overall statutory scheme, . . . completely ignore[s] the plain and longstanding distinction in U.S. immigration law between those noncitizens who are entering the country and those who remain after entering, . . . [and] misread[s] [] the statutory phrase 'seeking admission' to include the past-tense," *Lomeu*, 2025 WL 2981296, at *8, the Court should join "[t]he vast majority of" its colleagues in "reject[ing] [R]espondents' interpretation, and the BIA's interpretation in [*Yajure*] *Hurtado*, as contradictory to the plain text of § 1225," *Ayala Amaya*, 2025 WL 3033880, at *2.

27. Insofar as Petitioner's detention was carried out pursuant to this flawed reading of the INA, it should be considered unreasonable *ab initio* and the Government should be ordered to release Petitioner immediately. *See, e.g.*, *Zumba*, 2025 WL 2753496, at *11 ("For the reasons set forth above, petitioner's mandatory detention under § 1225 violates the INA and the Due Process Clause of the Fifth Amendment. The Court grants the writ of habeas corpus and orders respondents to release petitioner from detention within 24 hours. Following her release, respondents are

permanently enjoined from rearresting or otherwise detaining petitioner under § 1225 and may not arrest or otherwise detain petitioner under § 1226(a) for 14 days."); *Bethancourt Soto*, 2025 WL 2976572, at *9 (citing *Zumba*, *supra*); *Lomeu*, 2025 WL 2981296, at *9 ("Lomeu is unlawfully detained under § 1225(b)(2)(A). The statute and her constitutional right to due process require that she be provided immediate release from unlawful detention.").

28. At a bare minimum, and in the alternative, the Court should declare that Petitioner's custody is governed by 8 U.S.C. § 1226(a), and direct the Government to provide him with a bond hearing before an IJ and release him absent a showing that he is a flight risk or danger to the community. *See Ayala Amaya*, 2025 WL 3033880, at *3 ("Accordingly, I find that petitioner's mandatory detention pursuant to § 1225(b)(2)(A) violates the laws of the United States and petitioner's due process rights. Respondents are ordered to treat petitioner as detained under § 1226(a) and provide him with an individualized bond hearing.").

THIRD CLAIM FOR RELIEF
Fifth Amendment Right to Due Process

29. Petitioner hereby repeats and realleges all preceding allegations in the instant Petition as if fully set forth herein.

30. Applying the *Mathews* factors in this case, Petitioner's unexplained detention violates due process, and he is entitled to release pending a pre-deprivation bond hearing.

31. "Here, the first factor weighs heavily in Petitioner's favor, as the official action has deprived him of his physical liberty." *Bethancourt Soto*, 2025 WL 2976572, at *8 (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) ("[T]he most elemental of liberty interests [is] the interest in being free from physical detention by [the] government."); *Zadvydas*, 533 U.S. at 690 ("Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects.")).

32. "Similarly, the second *Mathews* factor weighs heavily in Petitioner's favor, as he is presently and *erroneously* detained under the mandatory detention provisions of § 1225, without an opportunity for a bond hearing." *Bethancourt Soto*, 2025 WL 2976572, at *8 (emphasis in original). Unless an "individualized determination was made prior to or contemporaneously with the decision to detain Petitioner . . . . , the risk of erroneous deprivation of Petitioner's liberty interest is high. *Artiga v. Genalo*, No. 25 Civ. 5208 (OEM), 2025 WL 2829434, at *9 (E.D.N.Y. Oct. 5, 2025 (citations omitted).

33. "Finally, the third *Mathews* factor, the Government's interests in detaining noncitizens are typically 'ensuring the appearance of aliens at future immigration proceedings' and 'preventing danger to the community.'" *Bethancourt Soto*, 2025 WL 2976572, at *8 (quoting *Zadvydas*, 533 U.S. at 690). Here, the third factor favors Petitioner, who has no criminal record. Moreover, even if "the government has a strong interest in enforcing the immigration laws, the government's interest in detaining petitioner without a hearing is 'low.'" *J.A.E.M.*, 2025 WL 3013377, at *7 (quoting *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019)). "In immigration court, custody hearings are routine and impose a 'minimal' cost." *Id.* (quoting *Doe v. Becerra*, No. 25-Civ. 647 (DJC), 2025 WL 691664, at *6 (E.D. Cal. Mar. 3, 2025)). "If the government wishes to re-arrest [petitioner] at any point, it has the power to take steps toward doing so; but its interest in doing so without a hearing," and without a warrant, "is low." *Id.* (quoting *Ortega*, *supra*) (alteration in *J.A.E.M.*).

34. "Respondents' ongoing detention of Petitioner with no process at all, much less prior notice . . . or an opportunity to respond, violates his due process rights." *Artiga*, 2025 WL 2829434, at *9 (citing *J.U. v. Maldonado*, No. 25 Civ. 4836 (OEM), 2025 WL 2772765, at *10 (E.D.N.Y. Sep. 29, 2025)). "A person's liberty cannot be abridged without 'adequate procedural

protections.'" *Id.* (quoting *Zadvydas*, 533 U.S. at 690). Petitioner received *no* process whatsoever prior to his detention. "And no process at all is plainly inadequate." *Savane v. Francis*, No. 25 Civ. 6666 (GHW), 2025 WL 2774452, at *10 (S.D.N.Y. Sep. 28, 2025).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court:

(1) Assume jurisdiction over this petition;

(2) Direct Respondents to show cause within three days (or in no event more than twenty days) why the Petition should not be granted;

(3) Declare Petitioner's ongoing detention to be violative of 8 U.S.C. §§ 1225 and 1226, as well as the Due Process Clause of the Fifth Amendment;

(4) Issue a preliminary injunction or writ of habeas corpus directing Respondents to immediately release Petitioner, or at minimum afford him a bond hearing; and

(5) Provide such other relief as the Court deems just and proper.

Dated: November 5, 2025
Kew Gardens, New York

By: /s/ Perham Makabi
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Luis Samuel Tene Sislema, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 5th day of November, 2025.

By: /s/ Perham Makabi

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