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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

NOEL B. BALMACEDA BUSTOS,)	
A )	
Petitioner,)	Civil Action No.
)	
v.)	
)	
PAM BONDI,)	
Attorney General of the)	
United States of America, and,)	Hon.
)	
KRISTI NOEM,)	
Secretary of the Department of)	
Homeland Security, (DHS) and,)	
)	
TODD LYONS, Acting Director,)	
United States Immigration and)	
Customs Enforcement (ICE), and,)	
)	
JOHN TSOUKARIS, Warden,)	
Delaney Hall Detention Facility,)	
)	
Respondents.)	

VERIFIED HABEAS CORPUS PETITION

INTRODUCTION

1. The Petitioner, a 35-year-old single male native and citizen of Nicaragua who has been detained at the Delaney Hall Detention Facility since his arrest by ICE on November 11, 2025 at his house. Because he may be removed out of the jurisdiction, Petitioner petitions the U.S. District Court to declare his mandatory

detention without bond unlawful and stay his removal outside of the New Jersey jurisdiction.

2. The Petitioner was detained in Mt. Laurel, NJ by ICE and brought to Newark, New Jersey.
3. Petitioner has no criminal arrests, offense or adjudication of an underlying offense in any jurisdiction in the United States.
4. He has now been placed on the detained docket and will be subject to removal proceedings before the Elizabeth Immigration Court at 625 Evans Street, Elizabeth, New Jersey. His next master hearing is scheduled for December 1, 2025 before the Honorable Ramin Rastegar.
5. Due to a new policy adopted by Respondents in July of 2025, all aliens such as Petitioner (who have not been admitted to the U.S.) are now subject to mandatory detention without bond. And even though the New Jersey District Court (Hon. Katharine Hayden) has already ruled that application of this new policy is unlawful as applied to aliens such as the Petitioner, who have resided in the U.S., the Respondents have unlawfully detained Petitioner pursuant to the same mandatory detention policy while his removal proceedings are pending.
6. Thus, Petitioner petitions this Court for an order declaring his mandatory detention unlawful.

JURISDICTION

7. This action arises under 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).

8. Petitioner is detained at the Delaney Hall Detention Center, Newark, New Jersey under the authority of the United States in violation of the Constitution and laws of the United States.

VENUE

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

PARTIES

10. Petitioner is a 35-year-old male, native and citizen of Nicaragua, who has been detained at the Delaney Hall Detention Facility since November 11, 2025.
11. He seeks issuance of a writ of habeas corpus.
12. 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.
13. 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.
14. 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.

15. Respondent John Tsoukaris is sued in his official capacity as the Warden of the Delaney Hall Detention Facility and, in this capacity, he is the Petitioner's actual physical custodian.

FACTS

16. Petitioner is a 35-year-old male, native and citizen of Nicaragua who entered the United States without inspection in 2022 and was released by ICE and has been living in Pennsauken, New Jersey without incident or criminal records until he was arrested by ICE a few days ago (when he reported to a check-in) and placed in mandatory detention.
17. He resided in Pennsauken, NJ with friends before his detention.
18. Petitioner is being detained solely based on a new policy adopted by DHS in July of 2025 which now subjects all aliens living in the U.S. who have not been admitted to mandatory detention even those such as Petitioner who have lengthy ties to the U.S. and no criminal record.
19. Given this new mandatory detention policy and the practice by ICE of removing aliens to distant parts of the U.S., the Petitioner faces a violation of his constitutional and due process and statutory rights under the INA and seeks immediately release from mandatory detention a detention statute, INA 235, that clearly does not apply to him.

20. The Petitioner does not have a final order of removal. He has been placed in immigration court now as a result of this new and illegal mandatory detention policy.
21. The Petitioner's removal proceedings are now or will be pending before the Elizabeth Immigration Court.
22. The Petitioner has no warrants or negative criminal history that would cause him to be a flight risk or danger to society.
23. The Petitioner has exhausted all administrative remedies because the Immigration Courts are bound by this new policy and by the Board of Immigration Appeals and cannot consider constitutional claims. The Petitioner is scheduled for his first immigration court hearing on December 1, 2025 at 1:30pm before the Elizabeth Immigration Court (IJ Ramin Rastegar). He is not eligible for bail under this new policy.
24. In a similar case last month, Judge Katharine Hayden ruled that this new mandatory detention policy is unlawful as applied to individuals such as the Petitioner who are not seeking admission at the border, but Respondents nonetheless seek to continue to detain Petitioner under this illegal application of the incorrect statute.
25. Thus, Petitioner has exhausted his administrative remedies and seeks a habeas order from this Court finding that his detention under 235 of the INA (a statute that is normally applied to aliens at the border who have never entered the U.S.) is illegal as applied to him.

26. Petitioner's removal from the 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 without due process and in violation of the INA. He seeks the only avenue of judicial review available to him, habeas review. He also seeks injunctive relief or restraints given that this issue has been exhaustively litigated in a similar case before other Judges in this district court and application of the INA 235 statute is clearly illegal as applied to the Petitioner.

COUNT I

27. The allegations contained in paragraphs 1 through 26 above are repeated and realleged as though fully set forth herein. Petitioner's continued mandatory detention violates the Due Process clause of the United States Constitution.

COUNT II

28. The allegations contained in paragraphs 1 through 26 are repeated and realleged as though fully set forth herein. Petitioner's mandatory 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 immediate release the Petitioner from custody or provide him with an individualized bond hearing.
2. Award Petitioner costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

3. Grant other and further relief that may be necessary and proper.

s/ Regis Fernandez
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Attorney for Petitioner

Dated: November 18, 2025

VERIFICATION

I, Noel B. Balmaceda Bustos, 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 November 18, 2025 in the city of Newark, NJ

s/ Noel Benito Balmaceda Bustos
NOEL BENITO BALMACEDA BUSTOS

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 his 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 November 18, 2025 in the city of Newark, NJ

s/ Regis Fernandez
REGIS FERNANDEZ, ESQ.