

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

Manuel Jesus SANANGO,

Petitioner,

– against –

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.

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS
AND COMPLAINT FOR
INJUNCTIVE AND
DECLARATORY RELIEF**

No. 25-cv-18328

Alien No. A



INTRODUCTION

1. Since 2002, Manuel Jesus Sanango (“Petitioner”) has resided in the United States. He has done so, confessedly, without lawful authorization. But he has worked hard—he owns a roofing company—and has paid taxes in this country. He has three children, all United States citizens by birth. And he has committed no crimes.

2. On December 7, 2025, as Petitioner was leaving a Home Depot in Newark, New Jersey, agents of Immigration and Customs Enforcement (“ICE”) took him into custody. On information and belief, ICE did not do so pursuant to any outstanding warrant for Petitioner’s arrest. As of this writing, Petitioner remains imprisoned in ICE custody at the Delaney Hall Detention Facility in Newark.

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,” establishing the legality of Petitioner’s arrest and the authority for his detention. If ICE arrested Petitioner without a warrant, or otherwise in excess of statutory authority, then he must be released.

JURISDICTION

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

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

6. This Court may grant relief under 28 U.S.C. § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201; and the All Writs Act, 28 U.S.C. § 1651.

VENUE

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

PARTIES

8. Petitioner is an Ecuadoran national who has resided in the United States since 2002. Prior to his detention, he resided in Newark, New Jersey with his partner and three United States citizen children. He is currently held at the Delaney Hall Detention Facility.

9. Respondent Luis Soto is the Director, *i.e.*, warden, of the Delaney Hall Detention Facility. He is Petitioner’s immediate custodian.

10. 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.

11. 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.

12. Respondent Pamela Bondi is the Attorney General. In her official capacity, she is charged with making determinations as to removability 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.

13. Respondents are collectively referred to as the "Government."

STATEMENT OF FACTS

14. An Ecuadoran national, Petitioner first entered the United States without authorization in approximately May of 2002. He was detained by ICE on one prior occasion, in 2008. At that time, an Immigration Judge ("IJ") granted him voluntary departure, and he left the United States for several months. He returned in February of 2009, and has resided here since. Petitioner lives in Newark with his partner and their three United States citizen children, the youngest of whom is two years old, and the oldest of whom is eight. He owns a construction company, which specializes in roofing and siding. He pays taxes, and on information and belief has no criminal record, in the United States.

15. On December 7, 2025, as Petitioner left a Home Depot in Newark, he was detained by ICE agents. It is unclear on what basis ICE agents stopped Petitioner, other than perhaps the fact that he was Hispanic and near a hardware store. *Cf. Noem v. Vasquez Perdomo*, No. 25A169,

2025 WL 2585637, at *5 (U.S. Sep. 8, 2025) (Sotomayor, J., dissenting from grant of stay) (“Based on the evidence before it, the court held that the Government was 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.”). Nor does it appear that the ICE agents had a warrant for Petitioner’s arrest.

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

LEGAL AND POLICY BACKGROUND

17. “[C]ivil immigration detention is typically justified only when a noncitizen presents a risk of flight or danger.” *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)). “[T]he Due Process Clause applies to all persons within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Rivera Zumba v. Bondi*, 25 Civ. 14626 (KSH), 2025 WL 2753496, at *10 (D.N.J. Sep. 26, 2025) (quoting *Zadvydas*, 533 U.S. at 693) (alterations in *Rivera Zumba*). And “adequacy of due process for civil detainees is generally guided by the three-part balancing test articulated in *Mathews v. Eldridge*.” *Id.* (citing 424 U.S. 319, 335 (1976)).¹

¹ “The *Mathews* factors are: (1) ‘the private interest that will be affected by the official action’; (2) ‘the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards’; and (3) ‘the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.’” *Id.* (quoting 442 U.S. at 335).

18. Beginning in May of this year, ICE has pursued an aggressive, “coordinated operation” which is “aimed at dramatically accelerating deportations.”² As part of this effort, policymakers appear to have imposed on ICE a daily quota of 3,000 arrests.³ And in part as a result of this campaign, ICE’s arrests of noncitizens without criminal histories have increased more than 800% since last year.⁴

19. At the same time, the Board of Immigration Appeals (“BIA”) has advanced a novel and expansive interpretation of the Government’s statutory authority to detain noncitizens indefinitely without bond. First, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), it held that individuals who were paroled into the United States without being placed in expedited removal proceedings were 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. Shortly thereafter, it clarified that its new mandatory detention rule applied to *all* persons present in the United States without admission. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

20. “The vast majority of courts confronting this precise issue have rejected [R]espondents’ interpretation, and the BIA’s interpretation in *Hurtado*, as contradictory to the plain

² 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/](https://www.washingtonpost.com/immigration/2025/05/23/immigration-court-arrests-ice-trump/); *see 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](https://www.nytimes.com/2025/05/30/us/politics/ice-courthouse-arrests.html).

³ 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/](https://www.reuters.com/world/us/ices-tactics-draw-criticism-it-triples-daily-arrest-targets-2025-06-10/).

⁴ 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](https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures).

text of § 1225.’ In fact, to date, every court in this District to have considered this issue has rejected Respondents’ expansive interpretation of § 1225(b)(2)(A).” *Diaz Rudecindo v. Florentino*, No. Civ. 16942 (ES), 2025 WL 3470299, at *3 (D.N.J. Dec. 3, 2025) (citation omitted) (citing *Perez v. Lyons*, No. 25-17186, 2025 WL 3238540, at *2 (D.N.J. Nov. 19, 2025) (collecting cases)) (alteration in *Diaz Rudecindo*); *see also Valerio v. Joyce*, No. CV 25-17225 (ZNQ), 2025 WL 3251445, at *3 (D.N.J. Nov. 21, 2025) (“This Court has routinely agreed with the vast majority of courts who have held § 1226(a), not § 1225(b), governs detention of noncitizens, like Petitioner, who are inadmissible but have resided in the United States many years without inspection and have been arrested under § 1226(a) for removal proceedings.” (collecting cases)).

FIRST CLAIM FOR RELIEF
Violation of Fifth Amendment Right to Due Process

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

22. Applying the *Mathews* factors, Petitioner’s warrantless detention under the wrong statute violates due process, and he is entitled to release.

23. “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.”)). “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). “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." *Id.* 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)).

24. Because "Petitioner's detention . . . violates his procedural due process rights. . . . , the Court [should] order Petitioner's immediate release" *Bethancourt Soto*, 2025 WL 2976572, at *9 (citing *Rivera Zumba*, 2025 WL 2753496, at *11).⁵

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

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

26. The primary immigration detention statute, 8 U.S.C. "§ 1226(a)[,] 'applies to aliens already present in the United States' and 'creates a default rule for those aliens by permitting—but not requiring—the [Government] to issue warrants for their arrest and detention pending removal proceedings.'" *Patel v. Almodovar*, No. 25 Civ. 15345 (SDW), 2025 WL 3012323, at *2 (D.N.J. Oct. 28, 2025) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018)). Petitioner's current detention appears to violate that statute for at least two reasons.

⁵ If this Court orders a bond hearing in place of immediate release, it should require that "[a]t said bond hearing, Respondents shall bear the burden to justify Petitioner's detention by clear and convincing evidence." *Ulloa v. Bondi*, No. 25 Civ. 17316 (SDW), 2025 WL 3470307, at *2 (D.N.J. Dec. 3, 2025) (citing *German Santos v. Warden Pike Cnty. Corr. Fac.*, 965 F.3d 203, 213 (3d Cir. 2020)).

27. First, section 1226(a) contains a warrant requirement (as does its implementing regulation. *See* 8 U.S.C. § 1226(a) (“On 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.”); *see also* 8 C.F.R. § 236.1(b)(1) (“At the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I-200, Warrant of Arrest.”). It does not appear that ICE had a warrant at the moment of Petitioner’s arrest, and if indeed it didn’t, the Court should declare Petitioner’s arrest to be unlawful for that reason.

28. Second, the Government has recently taken the position that individuals like Petitioner are subject to mandatory detention under 8 U.S.C. § 1225, and has refused to apply section 1226 to such persons as required by the plain language of the statute and Supreme Court precedent. *See Yajure Hurtado, supra*. Because 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.”); *Ramos v. Rokosky*, No. 25 Civ. 15892 (EP), 2025 WL 3063588, at *9 (D.N.J. Nov. 3, 2025) (“Petitioner is

unlawfully detained under § 1225(b)(2) and the Court will accordingly order his release.”); *see also Munaf v. Geren*, 553 U.S. 674, 693 (2008) (“Habeas is at its core a remedy for unlawful executive detention. The typical remedy is, of course, release.”).⁶

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

Dated: December 9, 2025
Kew Gardens, New York

/s/ Jonathan Lipsitz
Attorney for Petitioner

⁶ Alternatively, the Court should order the Government “to treat Petitioner as detained under § 1226(a) and provide him with an individualized bond hearing.” *Ulloa*, 2025 WL 3470307, at *2. “At said bond hearing, Respondents sh[ould] bear the burden to justify Petitioner’s detention by clear and convincing evidence.” *Id.* (citing *German Santos*, 965 F.3d 213).

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Manuel Jesus Sanango, 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 9th day of December, 2025.

/s/ Jonathan Lipsitz
Attorney for Petitioner