

Regis Fernandez, Esq. (RF-0555)
7 Federal Square
Newark, NJ 07102
(973) 297-0002 (tele)
(973) 297-0003 fax
Regisfernandez@aol.com
Attorney for Petitioner

DETAINED-DELANEY HALL

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

Luis Elias COTRINA ACOSTA,
A240-624-744,
Petitioner,

v.

PAM BONDI, Attorney General of the United States; Civil Action No.

KRISTI NOEM, Secretary of Homeland Security; Hon.

TODD LYONS, Acting Director of ICE;

and LUIS SOTO, Warden, Delaney Hall Detention Facility,
Respondents.

VERIFIED HABEAS CORPUS PETITION

SECTION I — INTRODUCTION, JURISDICTION, VENUE & PARTIES

INTRODUCTION

1. Petitioner, Luis Elias Cotrina Acosta, is a 30-year-old native and citizen of Peru who entered the United States on October 31, 2022 and was paroled into the country under INA § 212(d)(5)(A). He has resided continuously in New Jersey since that time, complied with every requirement imposed by ICE, and has no criminal history. Despite this, he was unlawfully detained under DHS's July 2025 mandatory detention directive, which has been repeatedly declared unlawful by multiple federal courts.

2. Petitioner seeks habeas corpus relief under 28 U.S.C. § 2241, requesting immediate release or, in the alternative, a constitutionally compliant bond hearing under INA § 236(a). Petitioner further seeks a stay of transfer outside the jurisdiction of the District of New Jersey.

3. As in numerous cases decided since July 2025, the government has unlawfully applied INA § 235(b) mandatory detention to an individual who was already living inside the United States for years, had been paroled, and maintained full compliance with immigration requirements. This detention violates the Immigration and Nationality Act, the Due Process Clause, and the Administrative Procedure Act.

JURISDICTION

4. This action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act, 8 U.S.C. §§ 1101 et seq. Jurisdiction is proper under 28 U.S.C. § 2241 because Petitioner is in federal custody within this District in violation of the Constitution, laws, and treaties of the United States.

5. Article I, Section 9, Clause 2—the Suspension Clause—provides further support for jurisdiction because habeas corpus remains the only available mechanism for judicial review of Petitioner’s unlawful detention.

VENUE

6. Venue is proper under 28 U.S.C. § 2241(d) because Petitioner is detained at Delaney Hall Detention Facility in Newark, New Jersey, which is within the jurisdiction of this Court.

PARTIES

7. Petitioner is a Peruvian national residing in New Jersey since October 2022 and currently detained at Delaney Hall Detention Facility under the supervision of ICE.


8. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration and enforcement of federal immigration laws.

9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and is responsible for DHS operations nationwide, including detention and enforcement practices.

10. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement and oversees ICE operations affecting Petitioner.

11. Respondent Luis Soto is the Warden of Delaney Hall Detention Facility and is Petitioner's immediate physical custodian.

SECTION II — FACTS OF THE CASE

12. Petitioner, Luis Elias Cotrina Acosta, is a 30-year-old native and citizen of Peru. He entered the United States on October 31, 2022, and records indicate that he was paroled into the country pursuant to INA § 212(d)(5)(A). Since his entry, he has resided continuously in New Jersey, most recently at  Galloway, NJ 08205.

13. After being paroled, Petitioner complied with all reporting requirements, including attending every scheduled ICE appointment. He has no criminal record whatsoever and has worked in the construction industry while living in the United States.

14. Petitioner demonstrated full compliance with the immigration process. He maintained a stable residence, contributed to the community through employment, and presented no flight risk or danger to the community.

15. Despite his consistent compliance and lack of any adverse factors, Petitioner was detained by ICE solely due to the July 2025 DHS mandatory detention policy change. This policy directed ICE to reclassify all noncitizens who had not been "admitted," regardless of their years of residence or parole status, as individuals subject to mandatory detention under INA § 235(b).

16. This new DHS policy has been repeatedly found unlawful by federal courts throughout the country, which have emphasized that INA § 235(b) was never intended to apply to individuals residing in the interior of the United States, especially those with parole status and long-term ties to the community.

17. At no time did Petitioner receive notice of any alleged violation of parole terms, nor was he provided an individualized assessment of flight risk or danger before being detained. His detention was automatic, categorical, and not based on any individualized factual findings.

18. Petitioner has no final order of removal, and his immigration case remains pending before the immigration court. There is no evidence that DHS can or will effectuate his removal in the reasonably foreseeable future.

19. Petitioner remains detained at Delaney Hall Detention Facility under the authority of Warden Luis Soto. His ongoing detention causes irreparable harm because it deprives him of liberty without lawful justification, due process, or statutory basis.

20. In the absence of judicial intervention, Petitioner will continue to suffer unconstitutional and statutorily unauthorized detention. Habeas corpus relief is therefore necessary and appropriate.

SECTION III — CLAIMS FOR RELIEF
FIRST CLAIM FOR RELIEF
Violation of the Due Process Clause of the Fifth Amendment
(Substantive and Procedural Due Process)

21. Petitioner incorporates by reference all prior paragraphs as though fully set forth herein.

22. The Due Process Clause of the Fifth Amendment protects all persons within the United States, including noncitizens, from unlawful and arbitrary governmental detention. Petitioner has lived in the United States for more than three years, has been paroled into the country, and has demonstrated full compliance with all ICE requirements.

23. Petitioner's sudden detention—without any individualized assessment of flight risk or danger, and without any change in circumstances—violates fundamental principles of due process recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001), *Young v. Harper*, 520 U.S. 143 (1997), and multiple post-July 2025 federal district court opinions invalidating DHS's new detention policy.

24. DHS failed to provide notice, a hearing, or any procedural safeguards before re-detaining Petitioner. This constitutes an arbitrary deprivation of liberty, in violation of due process.

SECOND CLAIM FOR RELIEF

DHS Policy Expanding Expedited Removal Beyond the 2-Year Statutory Limit
(Administrative Procedure Act – 5 U.S.C. § 706(2)(A))

25. Petitioner incorporates all prior paragraphs.

26. The INA strictly limits the application of expedited removal to individuals who cannot establish two years of continuous presence in the United States. Petitioner has resided in the U.S. since October 2022—more than three years.

27. DHS's July 2025 policy attempts to extend expedited removal and mandatory detention to individuals like Petitioner, despite clear statutory language and well-settled historical practice. This policy violates 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

28. DHS failed to take any steps required under 8 C.F.R. § 235.3(b)(2), including issuing a sworn statement, Form I-867A/B, or a determination of inadmissibility under the statutory threshold.

29. The policy contradicts the plain language of the INA and is therefore unlawful under the APA.

THIRD CLAIM FOR RELIEF

DHS Policy Is Arbitrary and Capricious
(Administrative Procedure Act – 5 U.S.C. § 706(2)(A))

30. Petitioner incorporates all prior paragraphs.

31. DHS's sudden reinterpretation of INA § 235(b), applied categorically to millions of individuals already living in the U.S., marks a dramatic departure from decades of consistent agency interpretation and federal regulatory guidance.

32. DHS failed to offer a reasoned explanation for abandoning its longstanding interpretation that individuals residing in the interior—including those who

entered without inspection but were later paroled—should be detained, if at all, under INA § 236(a), which provides for bond hearings.

33. DHS also failed to consider reliance interests recognized in *Encino Motorcars v. Navarro*, 579 U.S. 211 (2016), and *DHS v. Regents of the University of California*, 591 U.S. ___ (2020). Petitioner reasonably relied on the longstanding practice that he would not be subject to mandatory detention absent criminal conduct or a material change in circumstances.

34. The policy is unsupported by statutory authority, inconsistent with decades of regulatory practice, and arbitrary and capricious.

FOURTH CLAIM FOR RELIEF
Violation of INA §§ 1226(a) and 1225(b)

35. Petitioner incorporates all prior paragraphs.

36. Petitioner was paroled into the United States and lived here for more than three years before DHS re-detained him. Because he was not an “arriving alien” presenting at the border, INA § 235(b) does not apply.

37. Under longstanding interpretation and implementing regulations (62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)), individuals who have entered and reside in the interior—even without inspection—are detained, if at all, under INA § 236(a), which permits bond hearings.

38. DHS lacked lawful authority to re-detain Petitioner under § 235(b). Any detention must proceed under § 236(a), subject to individualized custody redetermination.

FIFTH CLAIM FOR RELIEF
Continued Detention Violates Substantive Due Process

39. Petitioner incorporates all prior paragraphs.

40. Petitioner poses no danger to the community and no risk of flight. He complied with all ICE requirements for more than three years, has a stable home address, and works in construction.

41. The government's categorical, automatic, and prolonged detention of Petitioner serves no legitimate governmental purpose. Under *Zadvydas* and related cases, immigration detention must bear a reasonable relation to the purposes of ensuring appearance and protecting the community.

42. Detaining Petitioner—without cause, individualized assessment, or statutory authority—constitutes arbitrary governmental action prohibited by the Due Process Clause.

43. Absent judicial intervention, Petitioner will continue to suffer unlawful detention in violation of his constitutional rights.

SECTION IV — PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

1. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from ICE custody because his detention is unlawful under the Constitution, the Immigration and Nationality Act, and the Administrative Procedure Act.
2. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge, pursuant to INA § 236(a), at which the

government must demonstrate by clear and convincing evidence that Petitioner is a flight risk or danger to the community.

3. Stay any transfer of Petitioner outside the jurisdiction of the District of New Jersey while this matter is pending.

4. Award costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

5. Grant such other and further relief as this Court deems just, equitable, and proper.

s/ Regis Fernandez
Regis Fernandez, Esq. (RF-0555)
7 Federal Square
Newark, NJ 07102
(973) 297-0002 (Tele)
(973) 297-0003 (Fax)
(201) 787-5584 (Cell/Text)
Regisfernandez@aol.com

Dated: December 11, 2026

VERIFICATION BY PETITIONER

I, Luis Elias Cotrina Acosta, declare under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am the Petitioner in this matter and am personally familiar with the facts set forth in this Petition.
2. I have read the Petition, and to the best of my knowledge, the facts stated therein are true and correct based on my personal knowledge, information, and belief.

Executed on December 10, 2025

Luis Elias Cotrina Acosta
Luis Elias Cotrina Acosta

VERIFICATION BY COUNSEL

I, Regis Fernandez, Esq., declare under penalty of perjury pursuant to 28 U.S.C. § 1746:

1. I am counsel for the Petitioner and am familiar with the facts of this case.
2. I have reviewed the allegations set forth in this Petition, and to the best of my knowledge, they are true and accurate.
3. The exhibits attached to this Petition, if any, are true and correct copies of the originals.

Executed on December 10, 2025

Regis Fernandez
Regis Fernandez, Esq. (RF-0555)
