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**DETAINED**  
**DELANEY HALL**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

\_\_\_\_\_  
**WILSON AMABLE MORALES PENALOZA,** )  
A  )  
Petitioner, )  
  
v. )  
  
**PAMELA BONDI,** )  
Attorney General of the United States, and )  
  
**KRISTI NOEM,** )  
Secretary of the Department of )  
Homeland Security, (DHS) and, )  
  
**TODD LYONS,** )  
Acting Director of Immigration & )  
Customs Enforcement, (ICE), and )  
  
**LUIS SOTO,** )  
Director of Delaney Hall Detention Facility, )  
  
\_\_\_\_\_  
Respondents. )

**Civil Action No.  
2:25-cv-18686**

**Hon.**

**ORAL ARGUMENT  
REQUESTED**

**VERIFIED HABEAS CORPUS PETITION**

## INTRODUCTION

1. The Petitioner is a 32 year old man who has resided in the United States for the past eight years, since 02/2017. He was released on bond in 04/2017, and was free until earlier this month. Last week, he was detained by Immigration & Customs Enforcement (“ICE”). He hereby petitions this District Court to declare his detention unlawful and stay his removal outside of the New Jersey jurisdiction.
2. Respondents have unlawfully detained him and seek to unlawfully remove him from the U.S. Thus, Petitioner petitions this Court for an order declaring his detention unlawful.
3. Petitioner’s removal proceedings remain pending before the immigration court (“EOIR”) in Newark, NJ. He currently has an application for Asylum and other protection relief pending with EOIR. He is not subject to an order of removal, and his removal proceedings remain pending. Petitioner does not have a pending request with EOIR, because such request now is fruitless. The BIA recently issued a precedential decision precluding Petitioner from succeeding on a bond request due to his manner of entry.
4. Absent an order from this Court, the Petitioner will continue to remain in detention unlawfully for the foreseeable future.

5. Petitioner asks the Court to find that Respondents have unlawfully detained him, and order his immediate release from custody. His family desperately awaits his quick return.

## **CUSTODY**

6. Petitioner is in the physical custody of Respondents and the Department of Homeland Security, U.S. Immigration & Customs Enforcement. Petitioner is currently at Delaney Hall Detention Facility in Newark, NJ. ICE has contracted with the GEO Group to detain individuals in the immigration custody of ICE such as Petitioner. The Petitioner is under the direct control of the Respondents and their agents, and the immediate custodian is the Director of Delaney Hall, Luis Soto, who is a named party in this action.

## **JURISDICTION**

7. This action arises under the Constitution of the United States, and the Immigration & Nationality Act (“INA”), 8 U.S.C. § 1101 et. seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104-208, 110 Stat. 1570, and the Administrative Procedure Act (“APA”), 5 U.S.C. §701 et seq.

8. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I § 9, cl. 2 of the United States Constitution (“Suspension Clause”); 28 U.S.C. § 1331, as the Petitioner is presently in custody under color of the authority of the United States and such custody is in violation of the Constitution, laws, or treaties of the United States, and the Fifth Amendment of the United States Constitution.

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act) to grant injunctive and declaratory relief.

## VENUE

10. Venue is proper and lies in this United States District Court for the District of New Jersey because a substantial part of the events or omissions giving rise to the claim arose in this judicial district. *See* 28 U.S.C. § 1391(e), and 28 U.S.C. § 2241, et seq. Pursuant to *Braden v. 30<sup>th</sup> Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the District of New Jersey, which is the judicial district in which Petitioner resides and is currently in immigration custody. The Petitioner is in immigration custody at Delaney Hall Detention Center in Newark, NJ.

## **PARTIES**

11. Petitioner is a 32 year old male, native and citizen of Ecuador who is detained at Delaney Hall Detention Hall in Newark, NJ. He currently has an Application for Asylum and other related protection relief pending with EOIR. He seeks a writ of habeas corpus due to his unlawful detention.

12. Respondent Pamela 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 DHS, 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 ICE, the department within DHS and in this capacity he is responsible for administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.

15. Respondent Luis Soto is sued in his official capacity as Director of Delaney Hall Detention Center in Newark, New Jersey, and in this capacity he is the Petitioner's actual physical custodian.

## FACTS

16. The Petitioner is a 32 year old male, native and citizen of Ecuador who entered without inspection on 02/2017, more than eight years ago. He has lived in New Jersey since his entry to United States in 2017.

17. A Notice to Appear in Removal Proceedings was issued on 02/08/2017. Ex. 1, Notice to Appear. He received a bond two months later with current Counsel on 04/25/2017. Ex. 2, Bond Order. The bond was issued under 8 U.S.C. § 1226(a), as the immigration judge cited to “8 CFR 236.1(c).” *Id.*

18. Petitioner’s I-589 Application for Asylum and for Withholding of Removal was timely filed in 10/2017. Ex. 3, I-589 Receipt Notice. In Ecuador, Petitioner was kidnapped and tortured for several days by a gang. The gang lit a plastic bag on fire and threw it on the bare skin of his back. Petitioner has permanent scars.

19. Petitioner’s removal proceedings remain pending before the immigration court (“EOIR”) in Newark, New Jersey, although he currently has no scheduled hearing. His last scheduled hearing was a trial date on 07/21/2025. Ex. 4, Notice of Hearing. EOIR cancelled that date due to scheduling priorities. Petitioner is not subject to an order of removal, and will remain detained for the foreseeable future.

20. Petitioner does not have a pending bond request with EOIR, because such request is now pointless without this Court’s intervention. A recent Board of

Immigration Appeals (“BIA”) precedential decision precludes him from succeeding. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

21. Additionally, it is difficult if not impossible to obtain any semblance of Due Process at EOIR today. EOIR is systematically purging immigration judges,<sup>1</sup> while at the same time advertising for “deportation judges.”<sup>2</sup>

22. Petitioner has exhausted all his administrative remedies, because he has no chance of obtaining a bond due to new BIA precedent and/or the lack of Due Process at EOIR.

23. Petitioner has no criminal arrests. He was cited in 06/2023 for traffic offense violations. On 11/13/2023, he pleaded guilty to NJSA 39:4-50, and paid a fine of approximately \$1200. He has no criminal arrests or detentions to speak of, only his 2017 and 2025 civil immigration enforcement actions.

24. Petitioner’s removal from United States cannot be effectuated in the reasonably foreseeable future. Absent judicial review of his custody claim,

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<sup>1</sup> See Emily Ngo, Politico, “Immigration courts thrown into chaos as Trump administration purges dozens of judges,” dated 12/06/2025, accessed on 12/09/2025 at: <https://www.politico.com/news/2025/12/06/trump-immigration-court-judge-purges-00679376>

<sup>2</sup> See Brendan Rascius, The Independent, “Trump advertises for latest shock troops in his immigration battle: ‘Become a Deportation Judge today’,” dated 12/09/2025, accessed on 12/09/2025 at: <https://www.the-independent.com/news/world/americas/us-politics/trump-deportation-judge-immigration-advertisement-b2881292.html>

Petitioner will continue to be illegally detained by ICE. Ex. 5, ICE Locator Results.

He seeks the only avenue of judicial review available to him, habeas review.

### **EXHAUSTION OF REMEDIES**

25. Petitioner has exhausted all practicable administrative remedies. He is precluded from succeeding on any bond due to new BIA precedent. While the bond request is pending, EOIR will deny such request without action from this Court.

26. EOIR has also made it impossible for noncitizens to obtain proper Due Process in bond proceedings and removal proceedings.

**COUNT I:  
VIOLATION OF FIFTH AMENDMENT  
RIGHT TO SUBSTANTIVE DUE PROCESS**

27. The allegations contained in paragraphs 1 through 26 above are repeated and realleged as though fully set forth herein.

28. Petitioner's detention violates the Due Process clause of the Fifth Amendment of the United States Constitution. Petitioner's substantive due process rights have been violated because his detention is arbitrary and unreasonable.

29. The Fifth Amendment of the Constitution guarantees civil detainees like Petitioner may not be subject to detention that infringes on his fundamental right to freedom and liberty.

**COUNT II:  
VIOLATION OF FIFTH AMENDMENT  
RIGHT TO PROCEDURAL DUE PROCESS**

30. The allegations contained in paragraphs 1 through 26 are repeated and realleged as though fully set forth herein.

31. Petitioner’s detention by Defendants violates his procedural due process rights under the Due Process Clause of the Fifth Amendment of the United States Constitution. The fundamental requirement of due process is the opportunity to be heard “at a meaningful time and in a meaningful manner.” *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (internal citations omitted). Procedural due process “imposes constraints on government decisions which deprive individuals of ‘liberty’ or ‘property’ interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment.” *Id.* at 332.

32. Defendants have unlawfully applied provisions of the INA to Petitioner by failing to grant Petitioner a meaningful bond hearing.

**COUNT III:  
VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT**

33. The allegations contained in paragraphs 1 through 26 are repeated and realleged as though fully set forth herein.

34. Petitioner's detention by Defendants violates the APA because agency actions by EOIR and ICE are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). Where a court finds agency action to violate the APA, the court shall "hold unlawful and set aside" the agency action. *Id.* Where the government has promulgated "[r]egulations with the force and effect of law," those regulations "supplement the bare bones" of federal statutes, such that the agencies are bound to follow their own "existing valid regulations." *United States ex rel. Accardi Shaughnessy*, 347 U.S. 260, 266, 268 (1954).

35. EOIR has unlawfully applied their regulatory authority to deny Petitioner a bond hearing.

### PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus directed to Respondents requiring them to immediately release Petitioner from custody;
3. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
4. Grant any other and further relief this Honorable Court deems just and proper;
5. Award Petitioner costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

Respectfully Submitted,

/s/ Jason Scott Camilo, Esq.

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Attorney for Petitioner

Dated: 12/16/2025

### VERIFICATION

I, Wilson Morales Penaloza, 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 was read the allegations contained in the foregoing Complaint in Spanish, the language I speak and understand the best.
3. To the best of my knowledge, those allegations are true based upon my personal knowledge, information and belief.

Executed on 12/16/2025

/s/ Wilson Morales Penaloza  
WILSON MORALES PENALOZA  
Petitioner

### VERIFICATION BY COUNSEL

I, Jason Scott Camilo, 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 this 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 12/16/2025

/s/ Jason Scott Camilo, Esq.  
JASON SCOTT CAMILO, ESQ.  
Attorney for Petitioner

**LIST OF EXHIBITS  
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

**Ex. Document**

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- 1 Notice to Appear dated 03/17/2017
- 2 I-589 Asylum Application Receipt Notice dated 10/03/2017
- 3 EOIR Bond Order Issued 04/25/2017
- 4 EOIR Notice of Hearing for 07/21/2025
- 5 ICE Locator Results from 12/16/2025