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**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SAMER ANTONIO PUENTES CERA,)

[REDACTED])

Petitioner,)

v.)

PAMELA JO BONDI,)

Attorney General of the)

United States of America,)

KRISTI NOEM,)

Secretary of the Department of)

Homeland Security, (DHS),)

TODD LYONS,)

Acting Director,)

United States Immigration and)

Customs Enforcement (ICE), and,)

THE WARDEN OF THE)

PHILADELPHIA FEDERAL)

DETENTION CENTER)

Respondents.)

Civil Action No. 2:25-cv-7406

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Samer Antonio Puentes Cera is a twenty-seven-year-old citizen of Venezuela who left his country of origin after being persecuted for openly opposing the regime of Nicolas Maduro. After arriving in the United States, he applied for asylum with the immigration court and complied with all the legal requirements imposed to him by the Immigration authorities. His asylum case, which was consolidated with his spouse's case, is pending in Immigration Court in Philadelphia. On December 29, 2025, during a regular ICE check-in, Mr. Puentes Cera was detained, even though there is no change in his personal circumstances that makes him a danger to the community, a threat to national security or a risk of flight.
2. Mr. Puentes-Cera is in the physical custody of Respondents at the Federal Detention Center in Philadelphia, Pennsylvania and faces unlawful prolonged detention in violation of the immigration laws and his constitutional rights.
3. Petitioner is detained pending his removal proceedings without access to a hearing conducted by a neutral decisionmaker to determine whether his detention is warranted based on danger or flight risk, pursuant to the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
4. This decision, which holds that 8 U.S.C. § 1225(b)(2) makes noncitizens like Petitioner who are apprehended in the United States but have never been admitted subject to mandatory detention without a bond hearing, violates the statute. Instead, 8 U.S.C. § 1226(a) applies and authorizes release on bond after a hearing before an immigration judge. The BIA's interpretation conflicts with the plain language and structure of the statute, as well as decades of uncontroverted agency practice. Therefore, the application of §

1225(b)(2) to Petitioner is contrary to law and violates the Immigration and Nationality Act (INA) and the Administrative Procedure Act (APA).

5. In the alternative, if the statute does authorize Petitioner's detention without a bond hearing, it violates his rights to substantive and procedural due process. Detention of all noncitizens who are subject to inadmissibility grounds, like Petitioner, without any individualized hearing does not "bear a reasonable relation to the purpose for which the individual was committed." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, application of the *Mathews v. Eldridge* balancing test shows that a bond hearing is necessary to protect Petitioner from an unnecessary deprivation of liberty. *See* 424 U.S. 319, 335 (1976).
6. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody, with appropriate conditions of supervision if necessary. In the alternative, Petitioner requests that this Court conduct or order an immigration judge to conduct a bond hearing at which (1) the government bears the burden of proving flight risk and/or dangerousness by clear and convincing evidence and (2) the reviewing court considers alternatives to detention that could mitigate risk of flight. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-214 (3d Cir. 2020).

JURISDICTION

7. Petitioner is in the physical custody of the Respondents at the Federal Detention Center in Philadelphia, Pennsylvania.
8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the U.S. Constitution (the Suspension

Clause).

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1261, the All-Writs Act.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
11. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

VENUE

12. Venue lies in the U.S. District Court for the Eastern District of Pennsylvania, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973) (finding proper venue lies in the judicial district in which Petitioner is currently detained).
13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part

of the events or omissions giving rise to the claims occurred in the Eastern District of New Jersey.

PARTIES

14. Petitioner is Samer Antonio Puentes Cera a twenty-seven-year-old citizen of Venezuela who has been detained at the Federal detention Center in Philadelphia since December 29, 2025. He seeks issuance of a writ of *habeas corpus*.
15. The warden of the Philadelphia Federal Detention Center is sued in his official capacity, as he is the Petitioner's actual physical custodian.
16. 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.
17. Respondent Pamela Jo 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.
18. 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.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

19. There is no statutory requirement of exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. *Arango Marquez v. Immigr. And Naturalization Svc.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative

exhaustion is therefore purely discretionary. *See Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at *2 (M.D. Pa. Aug. 2020) (“[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.”).

20. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing . . . In this context the need for habeas corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).
21. Moreover, the exhaustion “doctrine is not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question.” *Id.* at 666-67.
22. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); *see also Ashley*, 288 F. Supp. 2d at 667 (internal citations omitted). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim. *Qatanani*, 144 F.4th at 500.

FACTS

23. Mr. Puentes Cera is a citizen of Venezuela who fled his country after being threatened for refusing to join the National Guard. He entered the United States on or about July 4, 2023, and was detained for fifteen days in Laredo, Texas. On July 15, while still in

detention, Mr. Puentes Cera was interviewed by an asylum officer who determined that Mr. Puentes Cera has a credible fear of return to Venezuela.

24. On July 20, 2023, Mr. Puentes Cera was issued a Notice to Appear in immigration court charging him as inadmissible under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, "...as an alien present in the United States without being admitted or paroled, or who entered in the United States at any time or place other than as designated by the Secretary of Homeland Security." The same day, he was then released on his own recognizance.
25. On March 24, 2024, Mr. Puentes Cera submitted his asylum application to the USCIS. He also later applied and obtained Temporary Protected Status.
26. The immigration removal proceedings against him were initiated more than a year after his entry, on August 28, 2024, when the Department of Homeland Security filed the initial Notice to Appear with the Immigration Court.
27. On December 29, 2025, Mr. Puentes Cera presented himself to the ICE Office located at 114 N 8th St, Philadelphia, PA 19107 for a regular check-in. He was taken into custody and then transported to the Philadelphia Federal Detention Center, where he is currently held.
28. On December 30, 2025, the department of Homeland Security filed an additional charge of deportability in addition to the one set forth in the original Notice to appear, alleging that Petitioner is "subject to being taken into custody and deported or removed from the United States pursuant to ...Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of is not in possession application for admission, of a valid unexpired immigrant visa, reentry permit, border

crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.” This indicates the Government’s intention to argue that Mr. Puentes Cera is “an applicant to admission” as defined under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

29. Mr. Puentes Cera has no criminal record, is employed and pays taxes. He is married and resides with his wife, also a citizen of Venezuela, who is a co-Respondent in Mr. Puentes-Cera’s pending asylum case.
30. There was no change in Mr. Puentes-Cera’s personal circumstances that would justify ICE decision to arrest and detain him. He is neither a danger to the community nor a risk of flight.
31. The Petitioner is subject to indefinite unlawful detention due to DHS’ recent interpretation of the Immigration and Naturalization Act’s provisions regarding the detention of aliens. According to this interpretation that reverse decades of precedents and makes an entire section of the INA redundant, any alien who entered the United States without inspection is ineligible for bond.
32. On July 8, 2025, the Department of Homeland Security issued interim guidance titled “Detention Authority for Applicants for Admission.” The guidance stated that DHS and DOJ determined that 8 U.S.C. § 1225(b)(2), not §1226, governs aliens present in the U.S. who have not been admitted. Under this policy, such individuals are “applicants for admission” subject to mandatory detention and not eligible for bond release.
33. Two months later, on September 5, 2025, Board of Immigration Appeals adopted the

same interpretation of the Immigration and Naturalization Act and stripped the Immigration Judges of their authority to “hear bond requests or to grant bond to aliens who are present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025),

34. Petitioner has no other avenue of judicial review available other than habeas review.

35. Absent judicial review of her custody claim, Petitioner will suffer irreparable injury by being deprived of his physical liberty.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner’s continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
- 3) Issue a Writ of *Habeas Corpus* and order Petitioner’s immediate release from custody;
- 4) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
- 5) Grant such further relief as the Court deems just and proper.

Dated: December 30, 2025

A handwritten signature in black ink that reads "Adriana Mitchell". The signature is written in a cursive style with a horizontal line underneath the name.

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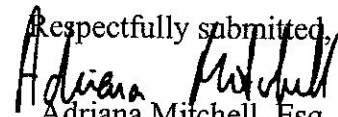
Philadelphia, PA 19102

Attorney for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorneys, and I have discussed the claims with the Petitioner. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 30, 2025

Respectfully submitted,

Adriana Mitchell, Esq.
Attorney for Petitioner

