

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

SUNIL CHINTAMAN PENDSE

Petitioner,

V.

WARDEN, Delaney Hall Detention Facility;
RUBEN PEREZ, Acting Director of the
Newark Field Office of Immigration and
Customs Enforcement; TODD LYONS,
Acting Director U.S Immigration and
Customs Enforcement; KRISTI NOEM, U.S.
Secretary of Homeland Security; PAMELA
BONDI, Attorney General of the United
States,

Respondents.

Case No.:

Agency Nos: 072-564-320 and 093-465-754

PETITION FOR WRIT OF HABEAS
CORPUS

ORAL ARGUMENT REQUESTED

INTRODUCTION

1. Petitioner Sunil Chintaman Pendse (“Mr. Pendse” or “Petitioner”) is a native of India and a citizen of Canada who has resided continuously in New Jersey for more than ten years. He resides with his US citizen wife, Sonali Sunil Pendse, in North Brunswick, NJ.
2. Mr. Chintaman was the victim of parental abuse caused by the couple’s adult US citizen son. He has an approved I-360 VAWA petition, and also has a U-visa I-918 bona fide determination, and has been granted deffered action.
3. On December 29, 2025, Mr. Chintaman attended an adjustment of status interview at the U.S. Citizenship and Immigration Services (USCIS) Office, located in Cranbury, NJ, with his immigration attorney, Doralina . He was detained during the interview by Immigration and Customs Enforcement (ICE) personnel, operating in conjunction with USCIS. He was advised that he was being transferred to Delaney Hall Detention Center, 451 Doremus Ave., Newark, NJ 07105, where he is currently located.
4. Through the country, ICE has been engaging in a pattern and practice of detaining individuals at USCIS adjustment of status interviews, despite the fact that the individuals are eligible for adjustment, and transferring them out of state with little or no notice, thereby severing access to counsel, family, and the courts with jurisdiction over their claims.
5. Mr. Chintaman has substantial, time-sensitive immigration claims, including eligibility to adjust status to lawful permanent residency.
6. Petitioner therefore seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 prohibiting his transfer outside the State of New Jersey and ordering his release or continued supervision pending resolution of his immigration proceedings.

JURISDICTION

7. This action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq.
8. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
9. This Court is authorized to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Venue is proper in the District of New Jersey because Mr. Donis Rafael resides in New Jersey, is under the supervision and authority of the Newark Field Office of ICE, and he is being transferred to Delaney Hall Detention Center in Newark, NJ.
11. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States acting in their official capacities, and a substantial part of the events giving rise to this Petition occurred and will occur within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. Under 28 U.S.C. § 2243, this Court must grant the writ or issue an Order to Show Cause “forthwith” unless it appears from the application that the petitioner is not entitled to relief.
13. If an Order to Show Cause issues, Respondents must file a return within three days unless, for good cause, additional time not exceeding twenty days is allowed.
14. The writ of habeas corpus exists to provide a swift and imperative remedy in cases of unlawful restraint. *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

15. Petitioner Cesar Donis Rafael is a citizen of Guatemala and has lived continuously in New Jersey since his return to the United States in 1993. He is presently detained at Delaney Hall Detention Center in Newark, NJ.
16. Respondent Warden Delaney Hall Detention Facility is sued in his/her official capacity as the Warden of the Delaney Hall Detention Facility.
17. Respondent Ruben Perez is sued in his official capacity as the ICE Field Officer Acting Director in Newark, New Jersey. Upon information and belief, he decided to revoke Petitioner's order of supervision.
18. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention of Petitioner.
19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security ("DHS") and is sued in her official capacity. The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a).
20. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States

STATEMENT OF FACTS

21. Mr. Chintaman is a native of India and a citizen of Canada who has resided continuously in New Jersey for more than ten years. He resides with his US citizen wife, Sonali Sunil Pendse, in North Brunswick, NJ.

22. On or about March 28, 2015, Mr. Chintaman was encountered at the US-Canada border, and was issued an order of expedited removal. He was nonetheless able to enter the US, and has remained in the US since that time. He works, pays taxes, supports his family, and has never been arrested for any criminal activity.
23. He has been the victim of parental abuse caused by the couple's adult US citizen son. He has an approved I-360 VAWA petition, and also has a U-visa I-918 bona fide determination, and has been granted deferred action.
24. On December 29, 2025, Mr. Chintaman attended an adjustment of status interview at the U.S. Citizenship and Immigration Services (USCIS) Office, located in Cranbury, NJ, with his immigration attorney, Doralina Luna. He was detained during the interview by Immigration and Customs Enforcement (ICE) personnel, operating in conjunction with USCIS. He was advised that he was being transferred to Delaney Hall Detention center, 451 Doremus Ave., Newark, NJ 07105, where he is currently located.
25. He also suffers from significant medical issues, including mental health issues, including PTSD, Major Depressive Disorder, Anxiety and Autophobia (the fear of being alone). He has suicidal tendencies.
26. He was involved in a serious car accident in 2025, and suffered serious injuries to his spine. He is receiving physical therapy and epidural injections for his treatment. He has difficulty lifting his arms, or removing his clothing, without assistance.
27. As noted above, Mr. Chintaman has an expedited removal order from 2015; however, his immigration attorney has filed both an I-601 waiver and an I-212 waiver to address any issues of inadmissibility/removability that he may have. They are both currently pending.

28. Because he has been granted deferred action as the victim of a serious crime, he is not removable, and ICE has acknowledged this. Nonetheless, ICE issued a Reinstatement of Removal in his case when he was detained.
29. He is both eligible for relief from removal, and release from custody, and Mr. Chintaman will agree to any alternatives to detention. His immigration attorney is pursuing humanitarian release and/or parole with ICE.
30. However, there exists the very real possibility that he will be transferred from Delaney Hall to another jurisdiction, far from his wife, his community, his doctors, and sent to a detention facility that has inadequate services for someone with his medical needs. This Petition is being filed to prevent unlawful transfer outside New Jersey and to preserve this Court's jurisdiction over his constitutional and statutory claims.
31. Transfer outside New Jersey would severely prejudice Mr. Chintaman by removing him from his counsel, his family support network, and the jurisdiction of this Court, and by impeding his ability to pursue his application for adjustment of status.

LEGAL FRAMEWORK

32. Immigration detention in conjunction with pending removal proceedings is governed primarily by 8 U.S.C. § 1226, while post-order detention is governed by 8 U.S.C. § 1231. Regardless of the statutory label asserted by DHS, federal courts retain habeas jurisdiction to review the legality of detention and transfer.
33. Noncitizens in immigration custody retain full Fifth Amendment due-process protections, including the right to access counsel and the courts. *Zadvydas v. Davis*, 533 U.S. 678, 690–93 (2001).

34. Federal courts possess authority under § 2241 and the All Writs Act to prevent transfers that would undermine their jurisdiction or cause irreparable constitutional harm.

CLAIM FOR RELIEF

COUNT I – Violation of the Fifth Amendment Due Process Clause

35. Petitioner incorporates by reference all preceding paragraphs.

36. Detention and transfer of Mr. Chintaman outside the State of New Jersey would arbitrarily interfere with his liberty interests, his access to counsel, and his ability to pursue adjustment of status.

37. Such transfer would cause immediate and irreparable harm and would violate procedural and substantive due-process protections guaranteed by the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this action;
- B. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243;
- C. Order Respondents not to transfer Petitioner outside the State of New Jersey while this Petition is pending;
- D. Order Petitioner's immediate release or continued supervision if detained;
- E. Grant such other and further relief as the Court deems just and proper.

DATED 31st of December 2025

Respectfully Submitted,

/s/ Susan G. Roy, Esq. _____
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I represent Petitioner Sunil Chintaman Pendse and submit this verification on his behalf. I have discussed with the Petitioner's wife and his immigration attorney the events described in this Petition and Complaint. Based on those discussions, 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 31st of December 2025

Respectfully submitted,

/s/ Susan G. Roy, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of December, 2025, I caused a true and correct copy of the foregoing **Petition for Writ of Habeas Corpus and all accompanying exhibits** to be served upon all parties through the Court's **CM/ECF electronic filing system**, which provides electronic notice and service upon all counsel of record and registered CM/ECF users.

Dated: December 31, 2025

Respectfully submitted,

/s/ Susan G. Roy, Esq.

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