

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

KELVIN GERARDO SILVA LUCENA)
)
 Petitioner,)
)
 v.)
)
 LUIS SOTO, Warden, Delaney Hall Detention)
 Facility; **JOHN TSOUKARIS**, Director of Newark)
 Field Office, U.S. Immigration and Customs)
 Enforcement; **KRISTI NOEM**, Secretary of the)
 U.S. Department of Homeland Security;)
 PAMELA BONDI, Attorney General of the United)
 States; and **TODD LYONS**, Director, Immigration)
 and Customs Enforcement in their official)
 capacities,)
)
 Respondents.)
 _____)

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Kelvin Gerardo Silva Lucena (“Mr. Silva Lucena” or “Petitioner”) is a native and citizen of Venezuela who entered the United States in or about December 2021. He is a husband and the father of one child, both of whom reside in the United States. Mr. Silva Lucena fled Venezuela due to deteriorating conditions in his home country and has since resided peacefully in the United States.
2. On November 10, 2025, Mr. Silva Lucena appeared for a scheduled ICE reporting appointment at ERO Newark in an effort to remain compliant with immigration authorities. Despite his compliance and absence of any flight risk or danger to the community, ICE officers detained him at that reporting appointment and placed him into civil immigration custody. He was subsequently transferred to Delaney Hall Detention Facility in Newark, New Jersey, where he remains detained.

3. Mr. Silva Lucena was detained without any individualized custody determination and without being afforded a meaningful opportunity to seek release. Immigration Judges have refused to conduct a bond hearing, asserting that they lack jurisdiction solely because Mr. Silva Lucena entered the United States without inspection and was apprehended by immigration authorities at the border.
4. As a result, Mr. Silva Lucena has been categorically denied access to a bond hearing or any neutral custody review. He has not received an individualized assessment of whether his continued detention is necessary, nor has the government borne any burden to justify his confinement.
5. Furthermore, immigration judges have informed detained individuals that they have been instructed by agency “leadership” that the declaratory judgment in *Maldonado Bautista* is not controlling, and that they remain bound to follow the agency’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which precludes bond eligibility without regard to individual circumstances. As applied here, this categorical approach deprives Mr. Silva Lucena of due process.
6. Mr. Silva Lucena’s ongoing civil detention is unconstitutional and unlawful. It violates the Due Process Clause of the Fifth Amendment, exceeds statutory limits, and is arbitrary where ICE denies him access to an Immigration Judge or any individualized custody process—particularly where his detention resulted from compliance with ICE reporting requirements and not from flight, danger, or misconduct.
7. Petitioner therefore requests that this Court grant the writ and order his immediate release, or in the alternative, order Respondents to provide a prompt, constitutionally

adequate custody determination before a neutral decision-maker, with the government bearing the appropriate burden of proof.

8. Additionally, ICE's detention of Mr. Silva Lucena following his voluntary appearance for an ICE report, and without proper notice or adherence to agency procedures, violates ICE's own policies and longstanding principles of administrative regularity, in contravention of the Administrative Procedure Act ("APA") and due process. *See Accardi v. Shaughnessy*, 347 U.S. 260 (1954). Accordingly, this Court should grant the instant Petition and order Mr. Silva Lucena's immediate release from custody, or such other relief as justice requires.
9. Petitioner further requests an order preventing Respondents from transferring him out of this District while this Court considers the Petition, as any such transfer would irreparably impair this Court's jurisdiction and Petitioner's access to counsel.

JURISDICTION

10. 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.*
11. This Court has subject matter jurisdiction under 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).
12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

13. Venue is proper in this District because Mr. Silva Lucena is physically confined at

Delaney Hall Detention Facility in Newark, New Jersey, which is located within the District of New Jersey. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).

14. Venue is also proper pursuant to 28 U.S.C. § 1391(b) and (e)(1) 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 District of New Jersey.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

17. Petitioner, Mr. Silva Lucena, is a citizen of Venezuela who has been in immigration detention since November 10, 2025. Mr. Silva Lucena is currently detained at Delaney Hall Detention Facility in Newark, New Jersey. He is in the custody, and under the direct control, of Respondents and their agents.

18. Respondent Luis Soto is the Warden of Delaney Hall Detention Facility, and he has immediate physical custody of Mr. Silva Lucena pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Mr. Silva Lucena. Respondent Soto is the immediate custodian of Mr. Silva Lucena. He is sued in his official capacity.
19. Respondent John Tsoukaris is sued in his official capacity as the Director of the Newark Field Office of U.S. Immigration and Customs Enforcement. Respondent Tsoukaris is a legal custodian of Mr. Silva Lucena and has authority to release him. He is sued in his official capacity.
20. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). She is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, which is responsible for Mr. Silva Lucena's detention. Ms. Noem has ultimate custodial authority over Mr. Silva Lucena and is sued in her official capacity.
21. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the head of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review ("EOIR"), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Mr. Silva Lucena and is sued in her official capacity.
22. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of respondent John Tsoukaris and ICE

in general. Respondent Lyons is a legal custodian of Mr. Silva Lucena and is sued in his official capacity.

STATEMENT OF FACTS

23. Petitioner Kelvin Gerardo Silva Lucena is a 30-year-old native and citizen of Venezuela. He entered the United States in or about December 2021. He is married and the father of one child, both of whom reside in the United States. Mr. Silva Lucena fled Venezuela due to deteriorating conditions in his home country and has since resided peacefully in the United States.
24. On November 10, 2025, Mr. Silva Lucena appeared for a scheduled ICE reporting appointment in compliance with the instructions of immigration authorities. Despite his voluntary appearance and absence of any allegation that he posed a danger or flight risk, ICE officers detained him at that reporting appointment and placed him into civil immigration custody.
25. Since his detention, Mr. Silva Lucena has not received an individualized custody determination before an Immigration Judge. Immigration Judges have declined to conduct bond hearings in his case, asserting that they lack jurisdiction solely because Mr. Silva Lucena entered the United States without inspection and was apprehended by immigration authorities at the border.
26. Mr. Silva Lucena has no violent criminal history. His record consists of a single DUI offense for which he was sentenced to one year of probation. He successfully completed all conditions of probation, and the term has since expired. He has no pending criminal matters and is not subject to any form of criminal supervision.

27. Mr. Silva Lucena’s continued civil detention has caused severe hardship to his family, including prolonged separation from his spouse and child and the disruption of his household and support system. His detention serves no legitimate regulatory purpose and is not supported by any finding that he poses a danger to the community or a risk of flight.

28. Absent intervention by this Court, Mr. Silva Lucena will remain detained indefinitely without access to an individualized custody determination, despite his compliance with immigration authorities, his completion of all criminal obligations, and his significant family ties in the United States.

LEGAL FRAMEWORK

I. Due Process Clause and Civil Immigration Detention

29. The Due Process Clause of the Fifth Amendment provides noncitizens with important protections regarding detention. As the Supreme Court has explained, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

30. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

31. Civil immigration detention must bear a reasonable relation to its purported purpose and may not be arbitrary or punitive. *Zadvydas*, 533 U.S. at 690. Although the Supreme Court

in *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), rejected a statutory reading imposing periodic bond hearings, it left open serious constitutional questions regarding prolonged or arbitrary detention. Following *Jennings*, the Ninth Circuit has expressed “grave doubt” that “any statute that allows for arbitrary prolonged detention without any process is constitutional.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

32. Here, Mr. Silva Lucena was detained after voluntarily appearing for a scheduled ICE reporting appointment, in an effort to comply with immigration authorities. He was taken into custody without advance notice, without any contemporaneous explanation of the legal or factual basis for detention, and without any individualized determination that detention was necessary to serve a legitimate governmental purpose. He was indefinitely without access to an individualized custody determination, despite his compliance with immigration authorities, his completion of all criminal obligations, and his significant family ties in the United States.

33. Detention under these circumstances violates due process at its inception. Where the government detains an individual without notice and without any individualized custody assessment—particularly in response to compliance rather than misconduct—detention becomes arbitrary and punitive, rather than regulatory.

II. Denial of Individualized Custody Process and the Categorical Use of *Matter of Yajure Hurtado*

34. Due process imposes minimum procedural requirements on immigration custody determinations. Where detention is discretionary, the government must justify continued confinement. To that end, courts have held that the government bears the burden of proof

by clear and convincing evidence to establish that continued detention is necessary due to danger or flight risk. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

35. In practice, Immigration Judges have declined to conduct bond hearings for certain noncitizens by asserting a categorical lack of jurisdiction based on manner of entry or alleged statutory bars, relying on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). This categorical approach forecloses any individualized custody determination and denies noncitizens access to a neutral decision-maker.

36. Where *Matter of Yajure Hurtado* is used to categorically deny bond eligibility—without regard to a noncitizen’s criminal history, family ties, compliance with immigration authorities, or availability of less restrictive alternatives—detention becomes arbitrary and constitutionally suspect. The denial of access to any custody hearing, standing alone, deprives a noncitizen of meaningful process and violates due process. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

III. Notice, Arbitrariness, and Alternatives to Detention

37. Due process also requires that the government provide adequate notice and avoid arbitrary deprivations of liberty. “The fundamental requisite of due process of law is the opportunity to be heard,” which has little value absent notice. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950).

38. Mr. Silva Lucena was detained following his appearance at an ICE reporting appointment without advance notice that he would be taken into custody and without any contemporaneous explanation of the legal or factual basis for detention. Such detention, imposed without notice and without an opportunity to be heard, is the hallmark of arbitrariness.

39. Immigration detention is intended to ensure a noncitizen's appearance at removal proceedings. Detention is not reasonably related to that purpose where less restrictive alternatives are available. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's Alternatives to Detention programs, including the Intensive Supervision Appearance Program ("ISAP"), have demonstrated extremely high compliance rates. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).
40. Here, Respondents failed to consider any alternative to detention before or after taking Mr. Silva Lucena into custody. The refusal to consider less restrictive means—particularly where detention followed voluntary compliance—renders his continued confinement arbitrary and disproportionate to any legitimate governmental interest.

IV. Violation of the Administrative Procedure Act and the Accardi Doctrine

41. Under the Accardi doctrine, federal agencies are required to follow their own rules and policies where individual rights are affected. *Accardi v. Shaughnessy*, 347 U.S. 260 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974).
42. This obligation is not limited to formally promulgated regulations. Courts have held that even internal or unpublished agency policies bind the agency when their language and context indicate mandatory application. *See Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991); *Doe v. Hampton*, 566 F.2d 265, 281 (D.C. Cir. 1977); *United States v. Heffner*, 420 F.2d 809, 813 (4th Cir. 1969).
43. Prejudice is presumed where an agency violates its own policies designed to protect individual rights. *See Montilla*, 926 F.2d at 167; *Heffner*, 420 F.2d at 813.
44. Courts possess equitable authority to remedy Accardi violations by ordering agencies to apply their policies correctly or by ordering relief directly where continued detention

would be unjust. See *Damus*, 313 F. Supp. 3d at 343; *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018).

45. Mr. Silva Lucena falls squarely within the category of individuals for whom discretionary release or alternatives to detention are appropriate. Nevertheless, Respondents detained him without notice, denied him any individualized custody review, and relied on categorical rules rather than case-specific analysis.

46. Respondents' failure to adhere to their own policies constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2), and violates due process. This unlawful detention is subject to judicial review and remedy through a petition for writ of habeas corpus.

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

47. Mr. Silva Lucena realleges and incorporates by reference the preceding paragraphs.

48. The Due Process Clause of the Fifth Amendment prohibits the Government from depriving any person of liberty without due process of law. U.S. Const. Amend V. To comply with the Due Process Clause, civil detention must "bear[] a reasonable relation to the purpose for which the individual was committed," which for immigration detention is removal from the United States. *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). Furthermore, notice is one of the fundamental elements of due process.

49. Petitioner has been detained since November 10, 2025, after appearing for a scheduled ICE reporting appointment in an effort to comply with immigration authorities. He was

taken into custody without advance notice that he would be detained, without presentation of a warrant, and without any contemporaneous explanation of the legal or factual basis for his detention.

50. Since his detention, Petitioner has not been brought before an Immigration Judge for a bond hearing and has been denied any meaningful opportunity to challenge his continued confinement. Immigration Judges have declined jurisdiction over his custody based on categorical interpretations of agency authority, rather than any individualized assessment.
51. As applied to Petitioner, Respondents' reliance on parole status and the categorical interpretation of *Matter of Yajure Hurtado* to deny access to a bond hearing eliminates individualized review and results in arbitrary civil detention without constitutionally adequate process.
52. Under these circumstances, Petitioner's continued detention violates both procedural and substantive due process. He is therefore entitled to habeas relief, including immediate release or, in the alternative, a prompt and constitutionally adequate custody determination at which the Government bears the burden of justifying continued detention.

COUNT TWO

UNLAWFUL CATEGORICAL DENIAL OF BOND ELIGIBILITY AND INDIVIDUALIZED CUSTODY REVIEW

53. Mr. Silva Lucena realleges and incorporates by reference the preceding paragraphs.
54. On November 20, 2025, the United States District Court for the Central District of California granted partial summary judgment in favor of individual petitioners, and on November 25, 2025, certified a nationwide Bond Eligible Class and extended declaratory relief to that class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, ---

F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

55. In *Maldonado Bautista*, the court held that members of the Bond Eligible Class are detained pursuant to 8 U.S.C. § 1226(a) and therefore may not be categorically denied consideration for release on bond under 8 U.S.C. § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

56. Despite this declaratory judgment, the Executive Office for Immigration Review (“EOIR”), Immigration Judges, and the Department of Homeland Security (“DHS”) have continued to deny bond consideration to similarly situated noncitizens, including Petitioner, by relying on the Board of Immigration Appeals’ decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

57. As a result, Petitioner will be denied any opportunity for individualized custody review based solely on asserted jurisdictional bars, rather than an assessment of danger, flight risk, or suitability for alternatives to detention as Immigration Judges are claiming a lack of jurisdiction.

58. Respondents’ continued reliance on *Matter of Yajure Hurtado* to categorically deny bond consideration—without regard to Petitioner’s individual circumstances—results in arbitrary detention without meaningful process, in violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

59. Petitioner is therefore entitled to habeas relief, including immediate release, or in the alternative, an order requiring Respondents to provide him with a prompt, individualized bond hearing consistent with 8 U.S.C. § 1226(a) and the requirements of due process.

COUNT THREE

**UNLAWFUL DETENTION UNDER 28 U.S.C. § 2241 AND VIOLATION OF THE
IMMIGRATION AND NATIONALITY ACT**

60. Mr. Silva Lucena realleges and incorporates by reference the preceding paragraphs.
61. Respondents may not detain a noncitizen arbitrarily or indefinitely without clearly articulating the statutory basis for detention and providing the process required by the Constitution.
62. Respondents have failed to provide Petitioner with meaningful notice of the statutory authority under which he is detained and have denied him access to an Immigration Judge for individualized custody review.
63. The categorical denial of any custody determination based solely on parole status exceeds lawful authority under the INA and renders Petitioner's detention unlawful and subject to habeas relief under 28 U.S.C. § 2241.
64. Because Respondents have deprived Petitioner of liberty without lawful process, this Court should grant the writ and order Petitioner's immediate release, or alternatively, order Respondents to provide a prompt and constitutionally adequate custody hearing.

COUNT FOUR

**VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT AND THE
ACCARDI DOCTRINE**

65. Mr. Silva Lucena realleges and incorporates by reference the preceding paragraphs.
66. Under the Accardi doctrine, which originated in the context of an immigration case and has been developed through subsequent immigration caselaw, agencies are bound to follow their own rules that affect the fundamental rights of individuals, even self-imposed policies and processes that limit otherwise discretionary decisions. *See Accardi*, 347 U.S.

at 226 (holding that BIA must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures . . . even where the internal procedures are possibly more rigorous than otherwise would be required.”).

67. The requirement that an agency follow its own policies is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d Cir. 1991). Even an unpublished policy binds the agency if “an examination of the provision’s language, its context, and any available extrinsic evidence” supports the conclusion that it is “mandatory rather than merely precatory.” *Doe v. Hampton*, 566 F.2d 265, 281 (D.C. Cir. 1977); see also *Morton*, 415 U.S. at 235–36 (applying *Accardi* to violation of internal agency manual); *U.S. v. Heffner*, 420 F.2d 809, 813 (4th Cir. 1969) (“Nor does it matter that these IRS instructions to Special Agents were not promulgated in something formally labeled a ‘Regulation’ . . .”).
68. When agencies fail to adhere to their own policies as required by *Accardi*, courts typically frame the violation as arbitrary, capricious, and contrary to law under the APA, see *Damus v. Nielson*, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) (“It is clear, moreover, that [*Accardi*] claims may arise under the APA”), or as a due process violation, see *Sameena, Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) (“An agency’s failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual’s constitutional right to due process.”) (internal quotations omitted).
69. Petitioner falls squarely within the category of individuals for whom discretionary release or alternatives to detention are appropriate. Nevertheless, Respondents detained him

without notice, denied him any individualized custody review, and relied on categorical rules rather than case-specific analysis.

70. Respondents' actions constitute arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2), and violate due process.

71. Prejudice to Mr. Silva Lucena is presumed, as the liberty interest at stake—freedom from detention—is fundamental. *See Montilla*, 926 F.2d at 167; *Delgado-Corea v. INS*, 804 F.2d 261, 263 (4th Cir. 1986) (violation of a regulation serving the noncitizen's benefit presumes prejudice). As a remedy, this Court should order Mr. Silva Lucena's immediate release.

COUNT FIVE

NECESSARY PRESERVATION OF JURISDICTION AND ACCESS TO COUNSEL

72. Mr. Silva Lucena realleges and incorporates by reference the preceding paragraphs.

73. Meaningful access to counsel and to the courts is a core component of due process, particularly in the context of habeas corpus proceedings challenging unlawful detention.

74. Absent Court intervention, Respondents retain the ability to transfer Petitioner out of this District, which would impair Petitioner's access to counsel licensed to practice at Delaney Hall and frustrate this Court's ability to exercise jurisdiction over this habeas action.

75. This Court has authority under the All Writs Act, 28 U.S.C. § 1651(a), to preserve its jurisdiction and protect the integrity of habeas review by preventing such transfers during the pendency of this action.

76. Petitioner is therefore entitled to an order restraining Respondents from transferring him out of the District of New Jersey while this Petition is under consideration.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

1. Exercise jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 and the Constitution of the United States;
2. Issue an Order to Show Cause, directing Respondents to show cause why the writ should not be granted and requiring Respondents to file a return forthwith, consistent with 28 U.S.C. § 2243;
3. Declare that Petitioner's continued civil immigration detention violates the Due Process Clause of the Fifth Amendment and exceeds Respondents' lawful authority;
4. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody. In the alternative, if the Court does not order immediate release, order Respondents to provide Petitioner with a prompt, constitutionally adequate custody determination before a judge, at which the Government bears the burden of justifying continued detention;
5. Pending resolution of this Petition, and pursuant to the Court's authority under the All Writs Act, 28 U.S.C. § 1651(a), enjoin Respondents from transferring Petitioner out of the District of New Jersey, including from Delaney Hall Detention Facility, so as to preserve this Court's jurisdiction and Petitioner's access to counsel;
6. Enjoin Respondents from removing Petitioner from the United States while this Petition is pending before the Court;
7. Grant any further relief this Court deems just and proper.

Respectfully submitted,

Dated: January 9, 2026

/s/ Stephanie M. Duque Isern
Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on January 9, 2026, Mr. Silva Lucena filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. My co-counsel or I will furthermore send a courtesy copy via email to the office of the United States Attorney for the District of New Jersey and send true copies by USPS Priority Mail to all Respondents and the U.S. Attorney's office.

s/Stephanie M. Duque Isern
Stephanie M. Duque Isern

Date: January 9, 2026