

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

JHONNY A. TRUCIOS-DAVILA,

Petitioners-

Plaintiffs, v.

KRISTI NOEM, *in her official capacity
as Secretary of the U.S. Homeland Security*;
PAM BONDI, *in her official capacity as
Attorney General of the United States*;
JOHN TSOUKARIS, *in his official
capacity as Field Officer Director of
Immigration and Custom Enforcement*; and
U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT.

Respondents-Defendants.

**PETITION FOR A WRIT OF HABEAS
CORPUS AND COMPLAINT FOR
INJUNCTIVE AND DECLARATORY
RELIEF**

Civil Action No.

**PETITION FOR A WRIT OF HABEAS CORPUS AND COMPLAINT FOR
INJUNCTIVE RELIEF**

INTRODUCTION

1. This case presents a request for immediate relief on behalf of Jhonny A. Trucios Davila ("Plaintiff/Petitioner"), who is a citizen of Peru born on  The Petitioner has lived in the United States since September 2022.

2. On December 23, 2025 at around 1:30pm, the Petitioner, who does not have any criminal convictions in his home country or the United States, was arrested by Immigration and Customs Enforcement (ICE) while walking in a public street in Elizabeth, New Jersey.

3. Petitioner is currently detained at Elizabeth Detention Facility, located at 625 Evans St., Elizabeth, NJ 07201, under the jurisdiction of the Newark Field Office of ICE Enforcement and Removal Operations ("ERO"). His detention is arbitrary, unlawful, and violates the Due Process Clause of the Fifth Amendment, the Fourth Amendment's prohibition against unreasonable seizures, the statutory requirements of 8 U.S.C. § 1226(a), the Administrative Procedure Act ("APA"), and the principles of fundamental fairness embodied in

the Constitution's Suspension Clause, Article I, Section 9, Clause 2. The detention also contravenes ICE's own prior individualized determination that community supervision was appropriate and represents a constructive denial of Petitioner's right to pursue immigration relief.

4. Petitioner seeks initial injunctive relief enjoining the Respondents from transferring him outside the District of New Jersey while this proceedings are pending,

5. Petitioner seeks a writ of habeas corpus ordering his immediate release from the Elizabeth Detention Facility, as his continued confinement lacks any individualized determination, serves no lawful purpose given his demonstrated reliability and lack of danger or flight risk, violates multiple constitutional and statutory protections, and is the product of an ICE enforcement campaign targeting Immigrants in general, and immigrants attending check-ins or court hearings without cause, notice, or consideration of individual circumstances. In the alternative, Petitioner requests an immediate custody redetermination hearing with full due process protections, including the right to present evidence and be represented by counsel.

6. Without this Court's intervention, the Petitioner is at imminent risk of being transferred to another state without cause or unnecessary prolonged detention.

JURISDICTION AND VENUE

7. This action arises under the Due Process Clauses of the Fifth Amendment to the United States Constitution and the Rehabilitation Act, 29 U.S.C. § 701 *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), 5 U.S.C. § 702 (waiver of sovereign immunity), 28 U.S.C. § 1346 (original jurisdiction), and Article I, Section 9, clause 2 of the United States Constitution (the Suspension Clause), and 8 U.S.C. § 1252(e)(2) (preserving habeas jurisdiction to review constitutional claims and questions of law)

9. While 8 U.S.C. § 1252(b)(9) channels certain immigration-related claims through the petition for review process, that provision does not divest this Court of habeas

jurisdiction over challenges to the fact or duration of detention Court may grant the requested habeas relief under 28 U.S.C. § 2241, and may grant ancillary declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202, the All Writs Act, 28 U.S.C. § 1651, and its inherent equitable powers to remedy constitutional violations and prevent mootness through transfer.

10. Venue is proper in the District of New Jersey pursuant to 28 U.S.C. § 2241(d) and pursuant to 28 U.S.C. § 1391(b) and (e).

PARTIES

11. Petitioner-Plaintiff, Jhonny Trucios Davila, is a native of Peru, but has been a resident of New Jersey since at least September 2022, where he has worked and belong to the community in the city of Elizabeth. He entered the United States around September 2022 seeking humanitarian protection from persecution in Peru. He has abided by the laws and rules of this country and has timely applied for asylum and withholding of removal as his form of immigration relief. To this date, he has not had a hearing before an immigration Judge to decide on the merits of his asylum application. On December 23, 2025, the Petitioner was arrested by ICE in Elizabeth, New Jersey and has been detained at the Elizabeth Detention Facility, located at 625 Evans St., Elizabeth, NJ 07201.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”) and is responsible for enforcing and administering the immigration laws of the United States, including Petitioner’s detention.

13. Respondent Pam Bondi is the Attorney General of the United States and oversees the Executive Office for Immigration Review (“EOIR”), which administers immigration court proceedings, including Petitioner’s immigration relief.

14. Respondent-Defendant, John Tsoukaris, is the Immigration Customs and Enforcement (ICE) Field Office Director in Newark, NJ. The Newark Field Office is responsible for carrying out ICE’s immigration detention operations in New Jersey detention

centers that house immigration detainees, including the Elizabeth Detention Facility. Defendant John Tsaoukaris is a legal custodian of plaintiffs. He is sued in his official capacity.

15. Respondent-Defendant ICE is a federal law enforcement agency within DHS. ICE is responsible for the criminal and civil enforcement of immigration laws, including the detention and removal of immigrants. Enforcement and Removal Operations (“ERO”), a division of ICE, manages and oversees the immigration detention system. Defendant ICE is a legal custodian of Plaintiffs.

FACTUAL BACKGROUND

16. Petitioner entered the United States on or about September 2022. Petitioner entered the United States seeking asylum from persecution in Peru. His asylum is based on credible fear of persecution and presents substantial factual and legal grounds for relief. Upon entry, the Petitioner was apprehended by immigration authorities near the border and was subsequently released under 8 U.S.C. 1226 following an individualized custody determination by ICE. Petitioner was not paroled under 8 U.S.C. 1182(d)(5) at the time of his entry. Since his release under 1226, Petitioner has been at liberty for approximately 3 years and has remained fully compliant with immigration supervision, reporting for all scheduled ICE check-ins and Court appearances without exception. Petitioner has never missed a single appointment, has maintained consistent contact with ICE, and has proactively notified authorities of any changes in his contact information or circumstances.

17. Since he entered the United States in September 2022, he has not had any encounters with law enforcement that are criminal in nature. His only encounter has been with immigration officers.

18. On December 23, 2025, without prior notice, warning, or explanation, and without conducting any individualized assessment of Petitioner's specific circumstances, ICE officers detained him while he was peacefully walking in Elizabeth, NJ and transferred him to the

Elizabeth Detention Facility in Elizabeth, NJ. When Petitioner inquired about the reason for his detention, officers did not inform him of any reasons, which has been a blanket enforcement practice lacking any individualized review, legal basis, or consideration of Petitioner's circumstances, lack of criminal history, or legal obligations.

19. Petitioner does not pose a flight risk as he has strong connections with his community in New Jersey. Petitioner does not pose a danger to the community either as he does not have any convictions that are criminal in nature in the United States or his home country, Peru.

LEGAL FRAMEWORK

20. The Immigration and Nationality Act ("INA") provides limited authority for civil immigration detention. Under 8 U.S.C. § 1226(a), the Secretary of Homeland Security "may" detain noncitizens pending removal proceedings, but only after making an individualized determination that detention is necessary to ensure appearance at removal proceedings or to protect public safety. This discretionary authority is constrained by constitutional due process requirements and cannot be exercised in an arbitrary or blanket fashion without consideration of individualized circumstances such as criminal history, compliance with supervision, community ties, and the strength of the underlying immigration claim. See *Rodriguez v. Robbins*, 715 F.3d 1127, 1138 (9th Cir. 2013) ("Section 1226(a)'s use of the word 'may' makes clear that [detention] authority is discretionary"), vacated on other grounds sub nom. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

21. Detaining individuals in the streets, without notice or individualized assessment, violates the Fifth Amendment's guarantee of due process and exceeds the statutory limits of 8 U.S.C. § 1226(a). See *Demore v. Kim*, 538 U.S. 510, 531 (2003) (recognizing due process limitations on immigration detention).

22. Petitioner has exhausted all available administrative remedies, and further pursuit of administrative relief would be futile. Under *Matter of Hurtado*, 23 I&N Dec. 179 (BIA 2001), immigration judges lack jurisdiction to conduct bond hearings for certain categories of detained individuals, including those subject to mandatory detention provisions. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c) because he has no criminal history and has strong ties to the community. Under the plain language of § 1226(c), mandatory detention applies only to noncitizens with specified criminal convictions, which Petitioner does not have. Despite Petitioner's clear eligibility for a bond hearing under § 1226(a), ICE has provided no bond hearing and has taken the position that Petitioner is not entitled to one, rendering administrative remedies futile.

23. Moreover, immigration judges are now denying bond motions asserting lack of jurisdiction under *Matter of Yajure Hurtado*, 29 I&N Dec. 215 (BIA 2025), for people who entered the United States without a visa. Thus, requiring the Petitioner to file a bond motion would be futile because he did not enter the United States in 2022 with a visa.

24. This Court, in *Valerio v. Joyce*, Civ. No. 25-17225, 2025 WL 3251445 (D.N.J. Nov. 21 2025) recognized that individuals, similar to Petitioner's case, are entitled to a bond hearing under § 1226(a), and have therefore recognized the futility of asking for bond with the Immigration Court without a Federal Court order for people detained under § 1226(c)

25. Given ICE's blanket detention policy as lack of explanation for the Respondent's detention, and the absence of any individualized assessment or changed circumstances, Petitioner has no meaningful opportunity to obtain a bond hearing through administrative channels that would consider his specific circumstances. The administrative process cannot remedy a detention that violates statutory and constitutional requirements from its inception. Administrative exhaustion would serve no purpose and would only prolong Petitioner's unlawful detention while he remains separated from his community and unable to adequately prepare his

Asylum case. The detention also prevents Petitioner from meeting with counsel to prepare his defense, gathering meaningful evidence to show the viability of his asylum claim. Each day of continued detention increases the practical harm to Petitioner's ability to prevail in his asylum case and undermines the individualized factors that support his release.

CLAIMS FOR RELIEF

COUNT I – VIOLATION OF THE FIFTH AMENDMENT (DUE PROCESS)

26. Petitioner's detention is arbitrary, capricious, and lacks any individualized determination as required by 8 U.S.C. § 1226(a) and constitutional due process. ICE detained him without notice, explanation, or any assessment of whether he poses a danger to the community or flight risk. ICE has failed to provide any hearing, written explanation of the detention decision, statement of reasons for reversing the prior release determination, or opportunity to present evidence demonstrating that community supervision remains appropriate. Petitioner received no notice that detention was being considered, no opportunity to present evidence of his compliance and community ties, and no explanation of what factors ICE considered or why the prior determination was incorrect. This complete absence of process violates both substantive due process—because the detention serves no legitimate government interest and is not narrowly tailored to any such interest—and procedural due process—because Petitioner received no meaningful opportunity to be heard before being deprived of his liberty. See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom 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"). The detention is particularly arbitrary given that ICE previously determined, through an individualized assessment, that Petitioner could be safely supervised in the community under § 1226, and nothing has changed since that determination except ICE's adoption of a blanket detention policy. Indeed, the facts have become more favorable to Petitioner since his initial release: he has now demonstrated

sustained compliance maintained stable housing and employment, and established deeper community ties. ICE's decision to detain him despite this favorable track record demonstrates that the agency is not engaged in individualized determinations but is instead implementing a categorical detention policy that fails to account for individual circumstances.

COUNT II – VIOLATION OF THE FOURTH AMENDMENT (UNREASONABLE SEIZURE)

27. ICE's arrest and continued detention of Petitioner for transiting in the Streets, without committing a crime, a new factual basis, probable cause, or reasonable suspicion of changed circumstances, constitutes an unreasonable seizure in violation of the Fourth Amendment. See *United States v. Brignoni-Ponce*, 422 U.S. 873, 878 (1975) (Fourth Amendment protections apply to immigration enforcement); *Martinez-Fuerte*, 428 U.S. 543 (1976). ICE had no information suggesting Petitioner posed a danger or flight risk, no evidence of any violation of supervision conditions, and no facts indicating changed circumstances that would justify a reasonable determination of detention. Petitioner's complete lack of criminal history and his established community ties and stable housing further demonstrate the absence of any legitimate basis for the seizure. The seizure is particularly unreasonable because it occurred while the Petitioner was transiting in Elizabeth, New Jersey without committing any crimes or violates any town or State laws. In essence, the Petitioner's arrest enforces ICE's notion that one can simple be arrested for being in public without committing any crimes or violates any town or state laws.

COUNT III – VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT (ARBITRARY AND CAPRICIOUS ACTION)

28. ICE's conduct constitutes an arbitrary and capricious agency action under 5 U.S.C. § 706(2)(A). ICE has failed to consider critical factors including: (1) Petitioner's has complied with the requirements of his initial release; (2) Petitioner's strong community ties to New Jersey;

(3) Petitioner's complete lack of criminal history; (4) the absence of any new facts or circumstances justifying detention; and (5) Petitioner's strong case for immigration relief. ICE's blanket detention policy, as evidenced by officers' lack of explanation as to why the Petitioner was being detained, represents a categorical approach that fails to account for individual circumstances, contradicts the agency's own prior individualized assessment, and violates the statutory mandate for case-by-case determinations under § 1226(a). The agency has provided no reasoned explanation for this policy change, no analysis of reliance interests created by the prior release determination, and no consideration of alternatives to detention despite Petitioner's demonstrated suitability for community supervision. See *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (agency action is arbitrary and capricious when the agency fails to consider important aspects of the problem or offers an explanation that runs counter to the evidence).

PRAYER FOR RELIEF

WHEREFORE, Petitioner request that this Court:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within (3) three days of this filing;
3. Declare that Petitioner's detention violates the Fifth and Fourth Amendments and the Administrative Procedure Act;
4. Issue a writ of habeas corpus ordering Petitioner's immediate release from custody at Elizabeth Detention Facility;
5. Enjoin Respondents from transferring Petitioner outside the District of New Jersey during this proceeding;
6. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
7. Grant such other relief as this Court deems just and proper.

DATED: January 8, 2026

Respectfully submitted,

/s/ William M. Candia

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VERIFICATION

I, William M. Candia, Esq., attorney for Petitioner Jhonny A. Trucios-Davila, verify under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have discussed this Petition with Petitioner and/or persons acting on his behalf, and that the factual statements contained herein are true and correct to the best of my knowledge and belief.

/s/ William M. Candia
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