

JS 44 (Rev. 11-21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of indexing the civil docket sheet. *(SEE INSTRUCTIONS ON REVERSE OF THIS FORM.)*

<p>I. (a) PLAINTIFFS</p> <p>Juan Rafael Cabreja Bueno</p> <p>(b) County of Residence of First Listed Plaintiff <u>Philadelphia</u> <i>(IN PLAINTIFFS' JURISDICTION CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) David M Bercovitch, Bercovitch Law Offices, 100 S. Broad Street, Suite 1902, Philadelphia PA 19102, 215-220-6310</p>	<p>DEFENDANTS</p> <p>Warden, Philadelphia Federal Detention Center, et al.</p> <p>County of Residence of First Listed Defendant <u>Philadelphia</u> <i>(IN PLAINTIFFS' JURISDICTION CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (if known)</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 3 Federal Question <i>(U.S. Government vs. a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III.)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%;"><i>(Plaintiff)</i></td> <td style="width:33%;"><i>(Defendant)</i></td> <td style="width:33%;"></td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1 <input type="checkbox"/> 1</td> <td>Incorporated - or Principal Place of Business in This State</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2 <input type="checkbox"/> 2</td> <td>Incorporated - <i>and</i> Principal Place of Business in Another State</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3 <input type="checkbox"/> 3</td> <td>Foreign Nation</td> </tr> </table>	<i>(Plaintiff)</i>	<i>(Defendant)</i>		Citizen of This State	<input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated - or Principal Place of Business in This State	Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated - <i>and</i> Principal Place of Business in Another State	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation
<i>(Plaintiff)</i>	<i>(Defendant)</i>												
Citizen of This State	<input type="checkbox"/> 1 <input type="checkbox"/> 1	Incorporated - or Principal Place of Business in This State											
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated - <i>and</i> Principal Place of Business in Another State											
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation											

IV. NATURE OF SUIT *(Place an "X" in One Box Only)* Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans <i>(Excludes Veterans)</i> <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<p>PERSONAL INJURY</p> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<p>PERSONAL INJURY</p> <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care Pharmaceutical Personal Injury <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <p>PERSONAL PROPERTY</p> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 U.S.C. 881 <input type="checkbox"/> 690 Other <p>LABOR</p> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <p>IMMIGRATION</p> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 425 Withdrawal 28 USC 157 <p>INTELLECTUAL PROPERTY RIGHTS</p> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <p>SOCIAL SECURITY</p> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI (Title XVI) <input type="checkbox"/> 865 RSI (405(g)) <p>FEDERAL TAX SUITS</p> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 U.S.C. 3729a-d) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 U.S.C. 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable Sat TV <input type="checkbox"/> 850 Securities Commodities Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District *(specify)* 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*
28 U.S.C. 2241

Brief description of cause
Illegal detention of a foreign national by Immigration and Customs Enforcement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.C.P.

DEMAND \$ _____

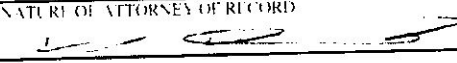
CHECK YES only if demanded in complaint

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions)*

JUDGE _____ DOCKET NUMBER _____

DATE: January 16, 2026

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIVED: _____ AMOUNT: _____ APPLYING FEE: _____ JUDGE: _____ MAG. JUDGE: _____

UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

Place of Accident, Incident, or Transaction: ICE ERO, Philadelphia Field Office

RELATED CASE IF ANY: Case Number: Judge:

- 1. Does this case involve property included in an earlier numbered suit? Yes
2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes
3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes
4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes
5. Is this case related to an earlier numbered suit even though none of the above categories apply? Yes

I certify that, to the best of my knowledge and belief, the within case is / is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts
2. FELA
3. Jones Act-Personal Injury
4. Antitrust
5. Wage and Hour Class Action/Collective Action
6. Patent
7. Copyright/Trademark
8. Employment
9. Labor-Management Relations
10. Civil Rights
11. Habeas Corpus
12. Securities Cases
13. Social Security Review Cases
14. Qui Tam Cases
15. Cases Seeking Systemic Relief *see certification below*
16. All Other Federal Question Cases. (Please specify):

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
2. Airplane Personal Injury
3. Assault, Defamation
4. Marine Personal Injury
5. Motor Vehicle Personal Injury
6. Other Personal Injury (Please specify):
7. Products Liability
8. All Other Diversity Cases: (Please specify):

I certify that, to the best of my knowledge and belief, that the remedy sought in this case does / does not have implications beyond the parties before the court and does / does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

X Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

3. Respondents are detaining Mr. Cabreja as if he were subject to mandatory detention under INA § 235, 8 U.S.C. § 1225(b), and take the position that he is ineligible for a bond (custody redetermination) hearing before an Immigration Judge.

4. Mr. Cabreja is properly detained, if at all, under INA § 236(a), 8 U.S.C. § 1226(a), and therefore is entitled to a prompt custody redetermination (bond) hearing.

5. Absent an order from this Court, Mr. Cabreja will continue to be detained without the bond-hearing procedures Congress provided in § 1226(a).

6. Mr. Cabreja asks this Court to issue an Order to Show Cause, declare that § 1226(a) governs his detention, order Respondents to release Petitioner (or, in the alternative, order Respondents to provide him a prompt bond hearing before an Immigration Judge).

JURISDICTION AND VENUE


7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et. seq.*

8. 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).

9. 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.

10. Venue is proper because Petitioner is detained at the Philadelphia Federal Detention Center in Philadelphia, PA, which is within the jurisdiction of this District.

PARTIES

11. Petitioner Mr. Cabreja is a citizen and national of the Dominican Republic (See attached “**Exhibit A**”). His A-Number is 

12. Mr. Cabreja is currently in civil immigration detention. ICE is holding Mr. Cabreja at the Philadelphia Federal Detention Center, 700 Arch Street, Philadelphia PA 19106 (See attached “**Exhibit B**”).

13. Respondent Warden, Philadelphia Federal Detention Center, Philadelphia, PA is Mr. Cabreja’s immediate custodian at the facility where he is confined and has day-to-day control over him.

14. Respondent David O’Neill, Acting Field Office Director, Philadelphia Field Office Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations (“ERO”), is responsible for ICE detention operations and custody decisions in the Philadelphia area.

15. Respondent, Kristi Noem, Secretary of the U.S. Department of Homeland Security (“DHS”) is sued in her official capacity and has authority to effectuate the relief requested.

16. Respondent, Pam Bondi, Attorney General of the United States is sued in her official capacity and has authority to effectuate the relief requested.

17. Respondent Executive Office for Immigration Review (“EOIR”) is a federal government agency responsible for adjudicating immigration proceedings. EOIR has the authority to release and/or schedule a bond hearing for the unlawfully detained Petitioner Mr. Cabreja.

FACTUAL BACKGROUND

18. Upon information and belief, Mr. Cabreja was encountered by Border Patrol on or about November, 2022 at or near Texas.

19. Upon information and belief, Mr. Cabreja was not served with a I-862 Notice to Appear when he was encountered at the Texas border despite presenting himself to immigration authorities.

20. In the alternative, upon information and belief, Mr. Cabreja was served with a I-862 Notice to Appear when he was encountered at the Texas border but it was not docketed with EOIR.

21. Upon information and belief, DHS issued a Notice of Custody Determination (Form I-286) stating that, pursuant to INA § 236 and 8 C.F.R. part 236, Mr. Cabreja would be released on his own recognizance pending removal proceedings.

22. After his arrival to the United States Mr. Cabreja was scheduled for and attended regularly ICE ERO “check-in” appointments at the Philadelphia Field Office.

23. On January 16, 2023, Mr. Cabreja appeared for his “check-in” appointment at ICE ERO, Philadelphia Field Office.

24. On January 16, 2024, Mr. Cabreja appeared for his “check-in” appointment at ICE ERO, Philadelphia Field Office.

25. On January 16, 2025, Mr. Cabreja appeared for his “check-in” appointment at ICE ERO, Philadelphia Field Office.

26. On January 16, 2026, Mr. Cabreja appeared for his “check-in” appointment at ICE ERO, Philadelphia Field Office. However, this time Mr. Cabreja was taken into ICE custody.

27. Respondents have taken the unconstitutional and unlawful position that Mr. Cabreja is subject to mandatory detention under INA § 235, 8 U.S.C. § 1225(b), and therefore is not eligible for a bond hearing before the Immigration Court.

LEGAL FRAMEWORK

28 U.S.C. § 2241

28. This court has authority to grant habeas relief under 28 U.S.C. § 2241, which empowers federal courts to issue the writ to a person “in custody” in violation of the Constitution or laws of the United States. A noncitizen held in immigration detention satisfies the “in custody” requirement, and § 2241 is the proper vehicle to challenge the fact and legality of detention and to seek release or other relief directed to the custodian.

28 U.S.C. § 2243

29. 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).

30. 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).

CLAIMS FOR RELIEF

COUNT I (Statutory/Ultra Vires) DHS lacks authority to detain under § 1225(b)(2); detention is governed by § 1226(a); refusal to provide bond hearing violates the INA/regulations

31. The averments contained in the preceding paragraphs one (1) – thirty (30) are incorporated by reference as if fully contained herein.

32. Section 1225(b) (INA § 235) governs certain arriving applicants for admission; Section 1226 (INA § 236) governs arrest, detention, and release “pending a decision on whether the alien is to be removed from the United States.” *INA* § 236(a) / 8 *U.S.C.* § 1226(a)

33. DHS previously exercised discretionary custody authority under INA § 236 (8 U.S.C. 1226) and released him on his own recognizance.

34. Now Respondents are attempting to reclassify Mr. Cabreja as subject to mandatory detention under § 1225(b) (INA § 235). However, this is inconsistent with the INA’s text, structure, and purpose.

35. Federal courts have held that individuals arrested within the United States are detained under § 1226—not § 1225(b)—and are entitled to the bond-hearing procedures provided by § 1226(a). See, e.g., *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (order granting petitioners’ motion for partial summary judgment).

36. Because § 1226(a) governs, Mr. Cabreja is entitled to a prompt bond (custody redetermination) hearing before an Immigration Judge pursuant to 8 C.F.R. § 236.1(d) and related regulations.

37. This Court should declare that § 1226(a) governs Mr. Cabreja’s detention and order Respondents to release Mr. Cabreja unless and until such a hearing is provided.

COUNT II (Due Process): Misclassification and categorical denial of any bond hearing deprives liberty without due process

38. The averments contained in the preceding paragraphs one (1) – thirty-seven (37) are incorporated by reference as if fully contained herein.

39. Civil immigration detention must comport with due process. By holding Mr. Cabreja without the bond-hearing procedures Congress and the regulations provide under § 1226(a), Respondents are depriving him of liberty without due process of law.

40. Due to Respondents deliberate and illegal detention of the Mr. Cabreja this Honorable Court should Order Respondents to immediately release Mr. Cabreja from custody.

41. At a minimum, due process requires that Mr. Cabreja receive a prompt hearing at which an Immigration Judge may consider whether detention is necessary based on flight risk or danger and may impose conditions of release if appropriate.

42. This Court should grant any additional relief necessary to remedy the due process violation.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue an Order to Show Cause under 28 U.S.C. § 2243 directing Respondents to respond promptly to this Petition;
- B. Declare that Respondents are unlawfully detaining Mr. Cabreja under 8 U.S.C. § 1225(b) and that 8 U.S.C. § 1226(a) governs his detention;
- C. Order Respondents to immediately release Mr. Cabreja from custody until such a hearing is provided;

D. Grant such other and further relief as the Court deems just and proper.

Date: January 16, 2026

Respectfully submitted,

/s/ David M. Bercovitch

David M. Bercovitch, Esq.

PA Bar No. 315026

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Philadelphia, PA 19110

Tel.: (215) 220-6310

Email: david@berclaw.com

Counsel for Petitioner Juan Rafeal Cabreja

Bueno

EXHIBIT B



Main Menu

Search Results: 1

JUAN RAFAEL CABREJA-BUENO

Country of Birth : Dominican Republic

A-Number: 

Status : In ICE Custody

State: PA

Current Detention Facility: Philadelphia Federal Detention Center

** Click on the Detention Facility name to obtain facility contact information*

[BACK TO SEARCH >](#)

Related Information

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- [Brochure](#)
- [ICE ERO Field Offices](#)
- [ICE Detention Facilities](#)
- [Privacy Notice](#)

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Locator



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Gov FearMapPolicies
Act & Plug-
Ins