

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

	§	
	§	
CRISTIANO ALVES SARMENTO,	§	Civil Action No.:
Petitioner,	§	
vs.		§PETITION FOR WRIT OF
		§HABEAS CORPUS (28 U.S.C. § 2241)
WARDEN, Delaney Hall Detention Facility;		§AND COMPLAINT FOR
KRISTI NOEM, Secretary of Homeland		§DECLARATIVE AND INJUNCTIVE
Security; PAMELA BONDI, Attorney General		§RELIEF
of the United States; TODD LYONS, Director		§ (Emergency Stay of Removal
of U.S. Immigration and Customs		§Requested)
Enforcement; RUBEN PEREZ, Newark Field	§	
Office Director, ICE;		
Respondents.	§	

I. INTRODUCTION

1. Petitioner, Cristiano Alves Sarmento, a citizen of Portugal, submits this Petition for a Writ of Habeas Corpus to challenge his continued, unlawful detention by U.S. Immigration and Customs Enforcement (ICE).

2. Petitioner has been detained since January 13, 2026 without a bond hearing.

3. Petitioner’s continued detention is not authorized by statute and violates the Due Process Clause of the Fifth Amendment to the United States Constitution.

4. Petitioner seeks an immediate stay of removal to prevent imminent deportation while this petition is pending.

II. JURISDICTION AND VENUE

5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and the Suspension Clause, Art. I, § 9, cl. 2 of the Constitution.

6. Venue is proper in the District of New Jersey because Petitioner is detained at Delaney Hall Correction Center, Newark, NJ, which is located within this district.

III. PARTIES

7. Petitioner, Cristiano Alves Sarmiento is a native and citizen of Portugal.

8. Respondents are the Warden of Delaney Hall Detention Center;; the Secretary of the Department of Homeland Security (DHS); and the Attorney General of the United States; the acting Director of U.S. Immigration and Customs Enforcement (ICE); the ICE Field Office Director for Newark, NJ.

IV. STATEMENT OF FACTS

9. Petitioner last entered the United States on January 22, 2015 under the U.S. Visa Waiver Program entering on a WT (Waiver-Tourist) Visa. (See, **Exhibit A**). Petitioner has continually resided in the United States for more than ten (10) years.

10. Upon information and belief, Petitioner was put into immigration custody on January 13, 2026 in Kearny, New Jersey as a result of a routine motor vehicle stop. Without reasonable suspicion or probable cause, the vehicle was stopped by an unmarked law enforcement vehicle and Petitioner, who was a passenger in the vehicle, was ordered out of the car. Petitioner was immediately put in custody by plain clothed individuals with no visible law enforcement insignia and transferred to Delaney Hall where he remains detained being denied a bond hearing.


11. Petitioner has not been charged with any criminal offense. It appears Petitioner has been targeted by Immigration and Custom Enforcement as a high priority case simply because he entered the U.S. under the Visa Waiver Program in 2015 and can be expeditiously

deported from the US under summary administrative removal pursuant to INA § 235(b)(1), which is denying his ability to seek bond or appear before an Immigration Judge.


12. Upon information and belief, respondent has no other criminal record.

Respondent is not a threat to the community nor is he a flight risk.

13. Respondent is married to Kathy Silva Vaz who is a U.S. Citizen. (See, **Exhibit B**). They married in Kearny, NJ on July 15, 2025. (See, **Exhibit C**).

14. Respondent and his wife have one US Citizen child, K  born of the marriage. (See, **Exhibit D**).

15. On July 19, 2025, Respondent's wife, Kathy Silva Vaz filed an I-130 petition with USCIS. The petition is still pending with USCIS. (See, **Exhibit E**). Petitioner is eligible to adjust status to that of a Lawful Permanent Resident here in the United States.

16. If released from custody, Respondent will reside with his wife, Kathy Silva Vaz and their 7-year-old child in their apartment located at .

17. If released from custody, Respondent will seek to complete his adjustment of status by filing Form I-485 Application to Adjust Status to that of a Lawful Permanent Resident.

V. CLAIMS FOR RELIEF

First Claim for Relief: Violation of Due Process (Unlawful Detention)

18. Petitioner incorporates paragraphs 1–17.

19. Continued detention without a bond hearing where the government bears the burden of proof violates the Fifth Amendment.

20. Petitioner has not been given a bond hearing, presumably pursuant to the recent holding of *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) claiming Petitioner is an “applicant for admission,” pursuant to INA §235(b)(2), (which should only apply during

inspection at the border), and thus not eligible for a bond hearing despite living inside the U.S. for over ten (10) years.

21. Pursuant to this Court's recent decisions in *Bethancourt-Soto v. Soto*, No. 25-16200, 2025 WL 2976572 (D.N.J. 2025) and *Rodriguez v. Rokosky*, No. 25-17419, 2025 WL 3485628 (D.N.J. Dec. 3, 2025) non-citizens apprehended inside the United States after residing here for extended period can only be detained under 8 U.S.C. § 1226, which requires an opportunity to seek bond.

VI. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction and order Respondents to show cause why the writ should not be granted;
2. Issue a writ of habeas corpus ordering Respondents to release Petitioner on their own recognizance or, in the alternative, provide a bond hearing within seven (7) days where the government must prove by clear and convincing evidence that detention is necessary;
3. **Emergency Relief:** Issue an emergency stay of removal to prevent the removal of Petitioner while this petition is pending;
4. Grant such other relief as this Court deems just and proper.

Dated: January 19, 2026

Respectfully Submitted,

/s/ Christopher Howell

Christopher Howell, Esq.
Attorney for the Petitioner

EXHIBIT A

Official Website of the Department of Homeland Security



U.S. Customs and Border Protection

I-94/I-95 Website
Travel Record for U.S. Visitors

Your Recent I-94/I-95

Get Most Recent I-94

Get your most recent I-94 form to prove your legal visitor status in the United States

Most Recent I-94

Need Help?

Note to employers, local, state or federal agency granting benefits:

Please visit the CBP I-94/I-95 Website and click on the tab for "Get Most Recent I-94/I-95" to perform a search for the applicant to confirm that the biographic and travel information displayed

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Admission I-94 Record Number: [REDACTED]

Arrival/Issued Date: 2015 January 22

Class of Admission: WT

Admit Until Date: 2015 April 21

Details provided on the I-94 Information form:

Last/Surname: ALVES SARMENTO

First (Given) Name: CRISTIANO

Birth Date: [REDACTED]

Document Number: [REDACTED]

Country of Citizenship: Portugal

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