

1 Carolina T. Curbelo, Esq.
2 The Law Office of Carolina T. Curbelo, LLC
3 41 North Broad Street, 2nd Floor
4 Ridgewood, NJ 07450
5 Telephone: (201) 379-4040
6 Fax: (201) 379-4777
7 Email: Carolina.Curbelo@curbelolaw.com
8 *Attorney for Petitioner*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF NEW JERSEY**
12

13 Jose Paul SALTO-SALTO,

14 Petitioner,

15 v.

16 Luis SOTO, Warden, Delaney Hall
17 Detention Facility,
18 Todd LYONS, Acting Director, U.S.
19 Immigration and Customs;
20 Kristi NOEM, in her Official Capacity,
21 Secretary, U.S. Department of Homeland
22 Security (hereinafter "DHS");
23 Pam BONDI is the Attorney General of
24 the United States of America

25 Respondents.

Case No.: 26-612

**PETITION FOR WRIT OF HABEAS
CORPUS**

ORAL ARGUMENT REQUESTED

26
27
28 **VERIFIED HABEAS CORPUS PETITION**

I. INTRODUCTION

Petitioner, Jose Paul Salto-Salto (hereinafter “Mr. Salto-Salto or Petitioner”), by and through undersigned counsel, complains of the Respondents, Luis SOTO, the Warden of the Delaney Hall Detention facility (hereinafter “Warden”); Todd LYONS, the Acting Director of the U.S Immigration Custom Enforcement (hereinafter ICE); Pam BONDI, the Attorney General of the United States of America; Kristi NOEM, in her Official Capacity, Secretary, U.S. Department of Homeland Security (hereinafter “DHS), as follows:

1. Petitioner is a 38-year-old male, a native and citizen of Ecuador, who is currently detained by Immigration and Customs Enforcement (“ICE”) at the Delaney Hall Detention Facility in Newark, New Jersey.

2. Petitioner applied affirmatively for asylum with U.S. Citizenship and Immigration Services (“USCIS”). At some point thereafter, USCIS closed Petitioner’s asylum case, without providing a reasoned explanation and without referring the matter to the Immigration Court, as required by law.

3. To date, no Notice to Appear (“NTA”) has been issued, and no removal proceedings appear in the EOIR system. Petitioner is therefore detained without charges, without proceedings, and without any neutral adjudicator having reviewed the basis for his continued custody.

1 4. Petitioner is currently in the physical custody of DHS/ICE. See **Ex. A**, ICE Locator
2 Information. The legality of immigration detention turns on custody, not on the issuance
3 or filing of a Notice to Appear.
4

5 5. Respondents have unlawfully detained Petitioner and continue to hold him in civil
6 immigration detention without statutory authority and in violation of the Constitution.
7 Accordingly, Petitioner seeks a writ of habeas corpus declaring his detention unlawful and
8 ordering his immediate release.
9

10 6. Absent this Court's intervention, Petitioner will remain detained indefinitely in
11 legal limbo, without process, proceedings, or any meaningful mechanism to seek release.
12

13 **II. CUSTODY**

14 7. Petitioner is in the physical custody of the Department of Homeland Security, U.S.
15 Immigration and Customs Enforcement. Petitioner is currently detained at the Delaney Hall
16 Detention Facility in Newark, New Jersey.
17

18 8. ICE has contracted with the GEO Group to detain individuals in immigration
19 custody, including Petitioner. The Petitioner is under the direct control of Respondents and
20 their agents. The immediate custodian is Luis Soto, Warden of Delaney Hall Detention
21 Facility, who is a named Respondent in this action.
22

23 **III. JURISDICTION**

24
25
26
27
28

1 9. This action arises under the Constitution of the United States, the Immigration and
2 Nationality Act (“INA”), 8 U.S.C. § 1101 et seq., as amended, and the Administrative
3 Procedure Act (“APA”), 5 U.S.C. § 701 et seq.
4

5 10. This Court has jurisdiction under 28 U.S.C. § 2241; Article I, § 9, cl. 2 of the United
6 States Constitution (the “Suspension Clause”); and 28 U.S.C. § 1331, because Petitioner is
7 presently in custody under color of the authority of the United States in violation of the
8 Constitution, laws, or treaties of the United States, including the Fifth Amendment.
9

10 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the
11 All Writs Act, 28 U.S.C. § 1651. This Court also has authority under 28 U.S.C. §§ 2201–
12 2202 to grant declaratory and injunctive relief.
13
14

15 V. VENUE

16 12. Venue is proper and lies in this United States District Court for the District of
17 New Jersey because a substantial part of the events or omissions giving rise to the claim
18 arose in this judicial district. See 28 U.S.C. §1391(e), and 28 U.S.C. §2241, et seq.
19 Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500
20 (1973), venue lies in the United States District Court for the District of New Jersey,
21 which is the judicial district in which Petitioner is currently in immigration custody. The
22 Petitioner is in immigration custody at Delaney Hall Detention Center in Newark, NJ.
23
24
25
26
27
28

V. PARTIES

13. Petitioner Mr. Jose Paul Salto-Salto is a 38-year-old male, a native and citizen of Ecuador, currently detained at Delaney Hall Detention Facility in Newark, New Jersey. He seeks a writ of habeas corpus challenging his unlawful detention.

14. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.

15. Respondent Kristi Noem is sued in her official capacity as Secretary of DHS, the agency in charge of administering and enforcing the immigration laws in New Jersey, and is the Petitioner's legal custodian.

16. Respondent Todd Lyons is sued in his official capacity as the Acting Director of ICE, the department within DHS, and in this capacity, he is responsible for administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.

17. Respondent Luis Soto is sued in his official capacity as Director of Delaney Hall Detention Center in Newark, New Jersey, and in this capacity, he is the Petitioner's actual physical custodian.

VI. FACTS

18. Petitioner is a 38-year-old male, a native and citizen of Ecuador. On January 9, 2026, the Respondent was detained by ICE while walking in front of St. Francis of Assisi Church, located at [REDACTED] The details of this incident and subsequent detention are currently unknown and remain under investigation. Petitioner is

1 currently in the physical custody of the Department of Homeland Security (ICE).

2 However, a notice to appear (NTA) has not yet been issued. The legality of immigration
3 detention turns on custody, not on the issuance or filing of a Notice to Appear.
4

5 19. Petitioner applied affirmatively for asylum with USCIS. See **Ex. B**. At some point
6 thereafter, USCIS closed Petitioner's asylum case. See **Ex C**. Petitioner was not provided
7 a reasoned explanation, nor was his case referred to the Immigration Court, as required
8 when asylum jurisdiction is terminated.
9

10 20. Although DHS has not yet issued a Notice to Appear, Petitioner has been
11 deprived of liberty and confined in an immigration detention facility without any neutral
12 adjudicator having reviewed the basis for continued custody. The absence of an NTA
13 does not cure this constitutional defect; rather, it exacerbates it by placing Petitioner in
14 legal limbo, detained without charges, proceedings, or a mechanism to seek release.
15
16 Petitioner is currently detained at the Delaney Hall Detention Center in Newark, New
17 Jersey.
18

19 21. Petitioner has not filed a bond request with EOIR because such a request is
20 pointless. There are no removal proceedings docketed at the EOIR system yet.
21

22 Additionally, a recent Board of Immigration Appeals ("BIA") precedential decision
23 precludes him from succeeding on appeal. See *Matter of Yajure Hurtado*, 29 I&N Dec.
24 216 (BIA 2025).
25
26
27
28

22. Moreover, it is difficult, if not impossible, to obtain any semblance of Due Process at EOIR today. EOIR is systematically purging immigration judges¹, while at the same time advertising for “deportation judges².”

23. Petitioner has not filed a bond request with EOIR because no immigration court proceedings exist. Any attempt to seek a bond would be futile.

24. The absence of an NTA does not cure the constitutional defect; rather, it exacerbates it, leaving Petitioner in a state of legal limbo — detained indefinitely without statutory or constitutional justification.

25. Petitioner has no outstanding warrants or criminal history that would change circumstances to justify his arrest and removal outside the District Court of New Jersey. He has no criminal arrests or detentions to speak of and is subject to habeas review.

VII. EXHAUSTION OF REMEDIES

26. Petitioner has exhausted all practicable administrative remedies. No removal proceedings have been initiated, no NTA has been issued, and no administrative forum exists in which Petitioner can challenge his detention. Where no meaningful administrative remedy is available, exhaustion is excused.

¹ Petitioner’s removal from the United States cannot be effectuated in the reasonably foreseeable future. Absent judicial review of her custody claim, Petitioner is being illegally detained by ICE. seeks the only avenue of judicial review avail See Emily Ngo, Politico, “Immigration courts thrown into chaos as Trump administration purges dozens of judges,” dated 12/06/2025, accessed on 12/09/2025 at: <https://www.politico.com/news/2025/12/06/trump-immigration-court-judge-purges-00679376>

² See Brendan Rascius, The Independent, “Trump advertises for latest shock troops in his immigration battle: ‘Become a Deportation Judge today’,” dated 12/09/2025, accessed on 12/09/2025 at: <https://www.the-independent.com/news/world/americas/us-politics/trump-deportati-on-judge-immigration-advertisement-b2881292.html>

COUNT I:

**VIOLATION OF THE FIFTH AMENDMENT RIGHT TO SUBSTANTIVE DUE
PROCESS**

27. The allegations contained in paragraphs 1 through 26 above are repeated and re-alleged as though fully set forth herein.

28. Petitioner's detention violates the Due Process Clause of the Fifth Amendment of the United States Constitution. Petitioner's substantive due process rights have been violated because his detention is arbitrary and unreasonable.

29. The Fifth Amendment to the Constitution guarantees that civil detainees, like Petitioner, may not be subjected to detention that infringes their fundamental right to liberty.

COUNT II:

**VIOLATION OF THE FIFTH AMENDMENT RIGHT TO PROCEDURAL DUE
PROCESS**

30. The allegations contained in paragraphs 1 through 28 are repeated and re-alleged as though fully set forth herein.

31. Petitioner's detention by Defendants violates his procedural due process rights under the Due Process Clause of the Fifth Amendment of the United States Constitution. The fundamental requirement of due process is the opportunity to be heard "at a meaningful time and in a meaningful manner." *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (internal citations omitted). Procedural due process "imposes constraints on

1 government decisions which deprive individuals of ‘liberty’ or ‘property’ interests within
2 the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment.” Id. at
3 332.
4

5 32. Defendants have unlawfully applied provisions of the INA to Petitioner by failing
6 to grant Petitioner a meaningful bond hearing.
7

8 **COUNT III:**

9 **VIOLATION OF THE ADMINISTRATIVE PROCEDURES ACT**

10 33. The allegations contained in paragraphs 1 through 26 are repeated and re-alleged
11 as though fully set forth herein.
12

13 34. Petitioner’s detention by Defendants violates the APA because agency actions by
14 EOIR and ICE are “arbitrary, capricious, an abuse of discretion, or otherwise not in
15 accordance with law.” 5 U.S.C. § 706(2)(A). Where a court finds agency action to violate
16 the APA, the court shall “hold unlawful and set aside” the agency action. Id. Where the
17 government has promulgated “[r]egulations with the force and effect of law,” those
18 regulations “supplement the bare bones” of federal statutes, such that the agencies are
19 bound to follow their own “existing valid regulations.” *United States ex rel. Accardi*
20 *Shaugnessy*, 347 U.S. 260, 266, 268 (1954).
21
22

23 **VIII. PRAYER FOR RELIEF**

24 35. WHEREFORE, Petitioner prays that this Court:
25

26 Assume jurisdiction over this matter;
27
28

- Issue a Writ of Habeas Corpus directed to Respondents requiring them to immediately release Petitioner from custody;
- Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- Grant any other and further relief this Honorable Court deems just and proper;
- Award Petitioner costs and attorney's fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412.

/s/ Carolina Theresa Curbelo, Esq.

Dated: January 20, 2026

Carolina Theresa Curbelo, Esq.

The Law Office of Carolina T. Curbelo, LLC

41 N. Broad Street, 2nd Floor

Ridgewood, New Jersey 07450

Tel. (201) 379-4040

Fax (201) 379-4777

Email: Carolina.Curbelo@curbelolaw.com

Attorney for Petitioner

VERIFICATION

I, Jose Paul Salto-Salto, declare under penalty of perjury in accordance with 28 U.S.C. § 1746 as follows:

1. I am the plaintiff-petitioner in this matter and am personally familiar with the facts of my case;
2. I read the allegations contained in the foregoing Complaint in Spanish, the language I speak and understand the best.
3. To the best of my knowledge, those allegations are true based upon my personal knowledge, information, and belief.

Executed on January 20, 2026
/s/ Jose Paul Salto-Salto
Jose Paul Salto Salto
Petitioner

VERIFICATION BY COUNSEL

I, Carolina Theresa Curbelo, declare under penalty of perjury in accordance with 28 U.S.C. § 1746 as follows:

1. I am the attorney for plaintiff-petitioner in this matter and am personally familiar with the facts of this case;
2. I have read the allegations contained in the foregoing Complaint, and to the best of my knowledge, those allegations are true based upon my personal knowledge, information, and belief.
3. I have also reviewed the documents attached to this habeas petition and confirm that they are true copies of the originals and that all the facts or allegations ascertained therein are true and correct to the best of my knowledge and experience.

Executed on January 20, 2026
/s/ Carolina Theresa Curbelo, Esq.
Carolina Theresa Curbelo, Esq.
Attorney for Petitioner

LIST OF EXHIBITS
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

Ex Documents

Ex. A ICE, Locator Search Results,

Ex. B, I-589 Receipt Notice,

Ex. C, USCIS Case Information Page.

/s/ Carolina Theresa Curbelo, Esq.

The Law Office of Carolina T. Curbelo, LLC

41 N. Broad Street, 2nd Floor

Ridgewood, New Jersey 07450

Tel. (201) 379-4040

Fax (201) 379-4777

Email: Carolina.Curbelo@curbelolaw.com

Attorney for Petitioner

EX A



Main Menu

Resultados de Búsqueda: 1

JOSE PAUL SALTO-SALTO

Pais de Nacimiento : Ecuador

Número A: [REDACTED]

Estatus : Bajo custodia del ICE

Estado: NJ

Centro de Detención Actual: DELANEY HALL DETENTION FACILITY

**Haga clic en el nombre del Centro de Detención para obtener información de contacto.*

[VOLVER A LA BÚSQUEDA>](#)

Información Relacionada

Información Útil

[Estatus de un Caso](#)

[Acerca del Localizador de
Detenidos](#)

[Folleto](#)

[Oficinas de Campo de ICE
ERO](#)

[Centros de Detención del ICE](#)

[Aviso de Privacidad](#)

Enlaces Externos



[DHS.gov](#)[USA.gov](#)[OIG](#)[OpenFOIA](#)[Metrics](#) [No](#) [Site](#) [Site](#)
[Gov](#) [FearMap](#)[Policies](#)
[Act](#) [& Plug-](#)
[Ins](#)



EX C

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28



U.S. Citizenship
and Immigration
Services

[MENU](#)

Case Status Online

Application Was Closed

We closed your application and we informed you of the reason when we notified you in writing. You must contact the USCIS office that has been handling your application if you believe we should not have closed your application.

Enter Another Receipt Number [?](#)

[Check Status](#)

Already have an Account? [Login](#)

Create an Account? [Sign up](#)

[DHS PRIVACY NOTICE](#)

[PAPERWORK REDUCTION ACT](#)

Related Tools

Change of Address

We strongly encourage you to update your address with USCIS to ensure you receive all correspondence and benefits from us in a timely