UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JOSE LUIS GARCIA SANTOS

Petitioner,

v.

William P. JOYCE Field Office Director of Enforcement and Removal Operations, New York Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Jose Luis Garcia Santos ("Petitioner" or "Mr. Garcia") is currently in the unlawful physical custody at, upon information and belief, the Metropolitan Detention Center ("MDC") in Brooklyn.[1]

2. Petitioner has been detained for unknown reasons.[2]

3. On February 16, 2026, the day of his detention, Petitioner was issued a Form I-213 by U.S. Customs and Border Patrol ("CBP") deeming him admitted. *See* I-213, attached as **Exhibit A**. The Form I-831 narrative further stated that "subject is admitted LPR to resume removal proceedings." *See* Form I-831, attached as Exhibit A.

4. As per CBP's own concessions, there is no statutory reason for detaining Petitioner.

5. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released from detention.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained, upon information and belief, at MDC in Brooklyn.

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

[1] Petitioner has been transferred several times since he was initially detained on February 16, 2026 and has reported that this is his current status.

[2] Petitioner has not received any formal document from ICE or DHS regarding the grounds for his detention.

VENUE

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Eastern District of New York the judicial district in which Petitioner is currently detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) 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 Eastern District of New York.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

12. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

13. Petitioner Jose Luis Garcia Santos is a citizen of the Dominican Republic who has been in immigration detention since February 16, 2026, when, after taking a brief trip to the Dominican Republic, he was admitted back into the country as an LPR.

14. ICE did not set bond and Petitioner has as of yet and he has been unable to obtain review of his custody by an IJ.

15. Respondent William P. Joyce is the Director of the ICE Field Office of ICE's Enforcement and Removal Operations division. As such, William P. Joyce is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

16. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

17. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

18. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

19. Respondent Executive Office for Immigration Review ("EOIR") is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

LEGAL FRAMEWORK

20. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention immediately after their release from criminal custody, *see* 8 U.S.C. § 1226(c).

22. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

23. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

24. This case presumably concerns the detention provisions at § 1226(a) and the admission of a Lawful Permanent Resident to continue his removal proceedings. The mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who were admitted to the United States as returning Lawful Permanent Residents.[3]

25. Section 1101(a)(13)(C) defines the circumstances under which a Lawful Permanent Resident may be regarded as seeking admission. Where one of the statutory exceptions applies, the government may treat the returning individual as an applicant for admission and process the individual under the admission provisions of the Immigration and Nationality Act. However, in this case the government did not do so. Instead, the government admitted Petitioner into the United States following inspection, specifically stating that he was an admitted LPR resuming his removal proceedings. *See* Form I-831.

[3] It must be noted that Petitioner has been detained noe for twenty-one days without any indication from Respondents as to why and on what grounds.

26. Admission is a legally significant act under the INA. The statute defines "admission" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. §1101(a)(13)(A). Once the government admits a noncitizen into the United States, the person is present in the country as an admitted alien, and the detention provisions applicable to applicants for admission under INA §235 no longer apply.

27. The Supreme Court and district courts have recognized that the statutory scheme distinguishes sharply between arriving applicants for admission and aliens who have already been admitted into the United States. *See, e.g., Zadvydas*, 533 U.S. at 693, 121 S.Ct. 2491; *see also Sajous v. Decker*, 18 Civ. 2447 (AJN), 2018 WL 2356266 at *8 (S.D.N.Y. May 23, 2018).

28. Once the government elects to admit an individual into the country following inspection, the individual cannot simultaneously be treated as if he remains at the threshold seeking admission.

FACTS

29. Petitioner resides in New York with his family. He has lived in the United States for nearly thirty-five years. He is the father of two U.S. Citizen children and three U.S. Citizen grandchildren. He is employed and files annual tax returns. Most of his immediate and extended family live in the United States, including his U.S. Citizen mother, his LPR father, and his U.S. Citizen siblings.

30. Petitioner entered the U.S. as a lawful permanent resident ("LPR") on February 15, 1990. *See* Petitioner's Lawful Permanent Resident Card attached as **Exhibit B.** On February 25, 1993, Petitioner was convicted of Attempted Criminal Sale of a Controlled Substance in the Third Degree, in violation of NYPL § 220.39, in the Supreme Court of the State of New York,

New York County. *See* Dispositions, attached as **Exhibit C**. On January 27, 1994, Petitioner was arrested for violations of NYPL §§ 220.39(1); 120.05(6); 110/265.02; and 205.30. All charges were dismissed. *See* Dispositions. The entire extent of Petitioner's criminal history during his nearly thirty-five years of living in the United States occurred prior to 1994, thirty years ago, in which he was convicted of one offense.

31. On March 26, 2024, the Department of Homeland Security ("DHS") initiated removal proceedings against Petitioner by serving him with a Notice to Appear ("NTA"), charging him as removable under Section 237(a)(2)(A)(i) of the Immigration and Nationality Act ("INA") for having been convicted of a crime involving moral turpitude committed within five years of admission. *See* NTA dated March 26, 2024, attached as **Exhibit D**.

32. While in removal proceedings initiated 2024, Petitioner applied for relief from removal in the form of 212(c), a waiver for LPRs with criminal convictions prior to April 1, 1997. On December 10, 2025, Petitioner had an individual removal hearing before Immigration Judge ("IJ") Andrew Calvelli regarding his 212(c) waiver application. During the hearing, the IJ indicated that he was inclined to grant the §212(c) waiver and asked DHS whether had any objection. DHS raised the issue of an open warrant regarding Petitioner's January 27, 1994 arrest, and requested the opportunity to take additional testimony of Petitioner. Although the Immigration Judge initially appeared willing to proceed, he determined that it would be more efficient to await the disposition of the open warrant matter. Accordingly, the hearing was continued for March 27, 2026 and undersigned counsel was instructed to submit the disposition once it became available. The criminal case was subsequently dismissed, and the disposition was submitted to the Immigration Court. *See* Dispositions.

33. In January of 2026, Respondent traveled to his home country of the Dominican Republic for a brief trip. On or about February 16, 2026, Respondent was admitted to the United States as a returning Lawful Permanent Resident. *See* I-213. The I-831 CBP narrative stated that "subject is admitted LPR to resume removal proceedings." However, despite his LPR admission, he was detained by the CBP without any reason cited and has remained in detention since that date and transferred to several detention facilities, without any opportunity to be heard.

34. On March 9, 2026, twenty-one days into his detention, Petitioner was scheduled for a bond hearing before IJ Chen at Newark Immigration Court upon the request of undersigned counsel. At the bond hearing, the IJ informed Petitioner's counsel that the bond motion would not go forward because Petitioner was no longer present at that location. The IJ informed undersigned counsel that Petitioner had been moved, though the IJ was unclear as to where. Therefore, it would be necessary to file a new motion for a bond hearing in the new location, whenever that would be determined.

35. Respondent has now been detained for twenty-one days in violation of his due process rights and without procedural safeguards and has been shuffled around to detention centers without any meaningful opportunity to be heard. On February 19, 2026, Respondent was detained at Orange County Correctional Facility in Orange County, New York. On February 20, 2026, Respondent was detained at Delaney Hall in Newark, New Jersey. On February 23, 2026, Respondent was informed that he was going to be transferred Louisiana, presumably to a long-term detention facility, although he was not ultimately brought to Louisiana. On March 6, 2026, Respondent was transferred to a new detention facility, which he believes to be MDC in Brooklyn.

36. Since the time of his detention, Petitioner has not received any formal documentation from ICE, DHS, or EOIR regarding his detention. For twenty-one days and counting, Petitioner remains in unlawful detention. Without relief from this court, he faces or the prospect of months, or even years, in immigration custody, while separated from his family and community.

37. Petitioner was admitted back into the country as an LPR to resume his removal proceedings; however, instead of allowing him to appear before the same IJ in New York who was prepared to issue a decision on his case, he has now been transferred multiple times and is at risk of being transferred further outside of the jurisdiction in which he lives and has access to counsel.

38. Petitioner is not a flight risk nor a danger to the community. *See* Documents In Support of Habeas, attached as **Exhibit E**. Petitioner has appeared at all removal hearings since their initiation in 2024 and has incentive to appear, as his case is close to resolution.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

39. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

40. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States. As relevant here, it does not apply to non-citizens who have been deemed admitted. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

41. Moreover, admission is a legally significant act under the INA. The statute defines "admission" as "the lawful entry of the alien into the United States after inspection and

authorization by an immigration officer." 8 U.S.C. §1101(a)(13)(A). Once the government admits a noncitizen into the United States, the person is present in the country as an admitted alien, and the detention provisions applicable to applicants for admission under INA §235 no longer apply.

42. Courts have held that, "Respondents' complete and utter failure to produce evidence supporting *any* ground to detain [petitioner] is reason alone to grant [his] Petition." *See Islam Khan Sohag v. Maldonado et al.*, No 26-CV-00856 (PKC) *citing Marisol P.Q. v. Bondi*, No. 26-CV-1055 (MJD/DJF), 2026 WL 468237 (D. Minn. Feb. 18, 2026), *report and recommendation adopted as modified*, No. 26-1055 (MJD/DJF), 2026 WL 468237 (D. Minn. Feb. 18, 2026). And, in *Yin v. Maldonado*, No. 26-CV-0103 (PKC), 2026 WL 295389, at *2 (E.D.N.Y. Feb. 4, 2026) the Court held that "a non-citizen who is already in the country pending the outcome of removal proceedings is not 'seeking admission,' and therefore is not subject to Section 1225(b)(2)(A)'s mandatory detention.").

43. The application of any such mandatory detention provision to Petitioner violates the INA.

COUNT II

Violation of the Due Process Clause of the Fifth Amendment (Procedural Due Process)

44. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

45. The procedural due process guarantee of the Fifth Amendment requires that individuals be provided notice and an opportunity to be heard before being deprived of liberty or property interests. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "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." *Zadvydas*, 533 U.S. at 690.

46. Under the familiar *Eldridge* due process test, the government's decision to detain Petitioner without any opportunity to meaningfully challenge that detention violates his procedural due process rights.

47. The risk of erroneously depriving Petitioner of his liberty interest is severe. The "suggestion that government agents may sweep up any person they wish, for [no] reason [whatsoever] ... so long as the person will, at some unknown point in time, be allowed to ask some other official for his or her release offends the ordered system of liberty that is the pillar of the Fifth Amendment." *Tumba v. Francis* No. 25-CV-8110 (LJL) 2025 WL 3079014 at *9 citing *Chipantiza-Sisalema*, 2025 WL 1927931 (SDNY July 13, 2025), at *3 citing *Velasco Lopez*, 978 F.3d at 851–52 (2d Cir. 2020) Mr. Garcia has been afforded no process, let alone constitutionally sufficient process, prior to or since this deprivation, making the value of additional process high. *See Eldridge*, 424 U.S. at 343.

48. The government's interest in detaining Petitioner is minimal. Petitioner does not present any flight risk or danger; he is firmly settled in New York, where he has been living with his family including his U.S. citizen children and grandchildren for the past thirty-five years without incident. Meanwhile, additional process would entail little to no burden on the government. *See Eldridge*, 424 U.S. at 347; *Vieira*, 2025 WL 2937880, at *6.

49. In short, the procedural due process guarantees of the Fifth Amendment ensure that noncitizens cannot be deprived of liberty or property interests without due process of law. *Barrows v Burwell*, 777 F.3d 106, 113 (2d Cir. 2015) (quoting *Mathews*, 424 U.S. at 332). Respondents violated Petitioner's right to procedural due process by detaining him on February 16, 2026, without providing adequate procedural protections before (or after) the resultant

deprivation of his liberty, including an individualized review of his detention through a bond hearing.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Eastern District of New York while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner;

e. Declare that Petitioner's detention is unlawful;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

DATED this 10th of March, 2026.

/s/Kerry W. Bretz
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