**IN THE UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DOS SANTOS SILVA, Gesiel,

Petitioner,

v.

JAMISON, J.L.,
Warden, Federal Detention Center, Philadelphia;

RIFE, John E.,
Acting Field Office Director, Immigration and Customs Enforcement, Enforcement and Removal Operations, Philadelphia Field Office;

MULLIN, Markwayne,
Secretary of the Department of Homeland Security;

BLANCHE, Todd,
U.S. Attorney General

U.S. DEPARTMENT OF HOMELAND SECURITY;

EXECUTIVE OFFICE OF IMMIGRATION REVIEW,

Respondents.

Case No. 2:26-cv-2506

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents, as follows:

## INTRODUCTION

1. Petitioner Gesiel Dos Santos Silva is a 32-year-old native of Brazil who is in the custody of the United States Department of Homeland Security ("DHS"), Immigration and Customs Enforcement ("ICE"). Prior to his detention, Petitioner had lived in Philadelphia, Pennsylvania after entering the United States on or about October 12, 2021.

2. On April 15, 2026 DHS detained Petitioner in Philadelphia, PA. It currently detains Mr. Dos Santos Silva at the Philadelphia Federal Detention Center. DHS purports to hold Mr. Dos Santos Silva under 8 U.S.C. § 1225(b)(2)(A), a mandatory detention statute. Its detention of Mr. Dos Santos Silva followed a drastic recent shift away from decades of prior precedent and practice.

3. Respondent's new application of 8 U.S.C. § 1225(b)(2) conflicts with the plain language and structure of the immigration detention statutes and has been widely rejected by district judges around the country, including within this Circuit. *See Ndiaye v. J.L. Jamison, et al*, No. CV 25-6007, 2026 WL 373247, at *7 (E.D. Pa. Feb. 10, 2026) (noting "308 judges[, appointed by every president since Ronald Reagan,] have ruled against the [Government]'s mass detention policy—ordering release or bond hearings in more than 1,600 cases" and listing cases in this District) (alterations in original) (internal citation omitted).

4. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioner is contrary to law, violating both the Immigration and Nationality Act (INA) and the Administrative Procedure Act (APA). Respondents' detention of Mr. Dos Santos Silva under § 1225(b)(2)(A) further violates his substantive and procedural due process rights. *See, e.g.*, *Ndiaye v. Jamison*, No. 25-cv-6007, 2025 WL 3229307, at *2 (E.D. Pa. Nov. 19, 2025).

5. Mr. Dos Santos Silva respectfully requests that this Court issue a writ of habeas

corpus and order Respondents to release him from their custody. *See, e.g.*, *Ndiaye*, 2025 WL 3229307 at *5 n.5 (ordering immediate release and finding that "[a] bond hearing would certainly result in [Petitioner's] release and only serve to delay relief when the "Government has offered no rationale to refuse bond").

**PARTIES**

6. Petitioner Gesiel Dos Santos Silva is a noncitizen currently detained by Respondents. He is detained in ICE custody at the Federal Detention Center in Philadelphia, Pennsylvania.

7. Respondent J.L. Jamison is sued in his official capacity as the Warden of the Philadelphia Federal Detention Center (FDC). He has direct custodianship over Petitioner at Philadelphia FDC.

8. Respondent John E. Rife is sued in his official capacity as the Acting Field Office Director of U.S. Department of Homeland Security, Immigration and Customs Enforcement's Philadelphia Field Office. He is responsible for the administration and management of ICE Enforcement Removal Operations in Pennsylvania and exercises administrative control over Petitioner's custody.

9. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security. DHS is responsible for administering and enforcing the immigration laws, including the decision to detain noncitizens. Secretary Mullin has ultimate legal custodianship over Petitioner.

10. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States. He is responsible for the Department of Justice, including the Executive

Office of Immigration Review. EOIR adjudicates individual immigration matters, including in removal and custody proceedings.

11. Respondent the U.S. Department of Homeland Security is the federal agency responsible for implementing and enforcing the Immigration and Nationality Act, including the detention of noncitizens.

12. Respondent the Executive Office of Immigration Review is the federal agency responsible for administering removal and custody proceedings. EOIR is a component of the U.S. Department of Justice. EOIR includes the Board of Immigration Appeals (BIA) and the immigration courts.

## JURISDICTION AND VENUE

13. This action arises under the Fifth and Fourteenth Amendments to the U.S. Constitution.

14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. 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.

15. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against one of its agencies and that agency's officers are sued in their official capacities. 5 U.S.C. § 702.

16. Venue is proper in this District because the Petitioner is detained in this district. 28 U.S.C. § 1391; *Rumsfeld v. Padilla*, 542 U.S. 426, 442 (2004).

## STATEMENT OF FACTS

17. Mr. Dos Santos Silva left his country of birth, Brazil, and entered the United States on or about October 12, 2021.

18. He was encountered by DHS officers shortly after entering the country. DHS detained and processed Mr. Dos Santos Silva for approximately one day and released him to live in Philadelphia, Pennsylvania. He complied with all conditions of release, including attending ICE check-ins.

19. Mr. Dos Santos Silva established community in Philadelphia, Pennsylvania, where he lives with his wife and two children, one of whom is a United States Citizen. He worked in the construction industry to support his family.

20. Mr. Dos Santos Silva filed an application for asylum with United States Citizenship and Immigration Services and completed biometrics when ordered on April 23, 2025. *See* Ex. 1, Application Support Center Appointment Notice.

21. On or about April 15, 2026, DHS officials detained Mr. Dos Santos Silva in Philadelphia, Pennsylvania.

22. DHS currently holds Mr. Dos Santos Silva at Philadelphia Federal Detention Center in Philadelphia, PA. *See* Ex. 2, U.S. Immigr. & Customs Enf't, *Online Detainee Locator System*, https://locator.ice.gov/odls/#/search (last accessed April 16, 2026) (search conducted for A-Number, [redacted]" and Country of Birth "BrazIl").

23. Upon information and belief, Respondents detained Mr. Dos Santos Silva under its revised interpretation of the immigration detention statues; specifically their new view that all noncitizens who have not been "admitted," 8 U.S.C. § 1101(a)(13)(A) are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

## LEGAL FRAMEWORK

### I. Section 1226(a) Governs the Detention of People Like Petitioner Who are Detained in the United States and Have Not Previously Been Admitted

24. There are two immigration statutes at issue here. 8 U.S.C. § 1226 governs the detention of noncitizens who entered without inspection and by default applies to all persons "pending a decision on whether the[y] . . . [are] to be removed from the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Section 1225(b)(2) governs the detention of individuals "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings*, 583 U.S. at 287.

25. Recently, Respondents' have flipped this statutory scheme on its head by stating that all noncitizens subject to grounds of inadmissibility are mandatorily detained under § 1225(b)(2), regardless of whether they are at the border or already in the country. *Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (B.I.A. 2025). This novel interpretation regarding § 1225(b)(2) has been soundly rejected by Article III Courts. Judges from all around the country, including from the Eastern District of Pennsylvania, have held that people who are present without having been admitted are eligible for bond pursuant to § 1226(a). *See Ndiaye*, 2026 WL 373247, at *7 (noting "308 judges[, appointed by every president since Ronald Regan,] have ruled against the [Government]'s mass detention policy—ordering release or bond hearings in more than 1,600 cases" and listing cases in this District) (alterations in original) (internal citation omitted). As these decisions explain, Respondents' position, relying on the Board of Immigration Appeals' decision in *Yajure Hurtado*, is wrong.

26. First, the plain text of the statute shows that 8 U.S.C. § 1226(a), not § 1225(b), applies to immigrants like Mr. Dos Santos Silva. The text of § 1225 shows that it applies only to

"noncitizens who are just arriving or have recently arrived in the country." *Ndiaye*, 2025 WL 3229307 at *5. The statute requires detention of noncitizens who are "seeking admission," a phrase that "connotes some affirmative, present-tense action"—applying this phrase to "noncitizens already residing in the United States" is inconsistent with the plain text of the statute. *Id*. The title and heading of the statute also shows that § 1225 only applies to noncitizens at the border. *Id*.

27. The text of § 1226, on the other hand, shows that it plainly applies to noncitizens "already present in the country" because of its title and because "[n]one of its provisions mention arriving noncitizens or discuss the border or ports of entry." *Id*. As such, it "creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Jennings*, 583 U.S. at 303.

28. Second, Respondents' interpretation of § 1225 violates the rule against surplusage because it reads out the phrase "seeking admission." *Ndiaye*, 2025 WL 3229307, at *14. Under Respondents' interpretation, all noncitizens "seeking admission" are "applicants for admission," "effectively eliminate[ing] any meaning to the words 'seeking admission' within the statute." *Id*. Instead, Congress added the phrase "seeking admission" to the statute, distinguishing "applicants from admission" from noncitizens "seeking admission." *Id*.

29. Third, Respondents' interpretation of the statute would also render all the grounds of mandatory detention in 8 U.S.C. § 1226(c) applied to inadmissible noncitizens, including the recently-passed Laken Riley Act, superfluous. *Ndiaye*, 2025 WL 3229307 at *6; *see Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386 (2013) ("[T]he canon against surplusage is strongest when an interpretation would render superfluous another part of the same statutory scheme.").

30. Fourth, agency past practice shows that noncitizens like Mr. Dos Santos Silva are subject to detention under § 1226(a), not § 1225(b). For almost thirty years, since § 1225(b)(2)'s inception in 1997, "the Government's immigration enforcement practices have been to detain noncitizens who have been residing in the United States under § 1226, entitling them to a bond hearing." *Ndiaye*, 2025 WL 3229307 at *6.

31. Finally, as discussed below, the BIA's interpretation of 8 U.S.C. § 1225(b)(2)(A) to mandate detention without a bond hearing for all noncitizens present in the United States without having been admitted presents serious constitutional concerns. To the degree that the statute remains ambiguous, the Court should presume that Congress "did not intend the alternative which raises serious constitutional doubts" and reject that construction. *Clark v. Martinez*, 543 U.S. 371, 381–82 (2005).

## II. The BIA's Application of Mandatory Detention to Noncitizens Like Petitioner Violates Substantive and Procedural Due Process

32. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "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 v. Davis*, 533 U.S. 678, 690 (2001). This fundamental due process protection applies to all noncitizens within the United States, including both removable and inadmissible noncitizens. *See id*. at 693; *Plyler v. Doe*, 457 U.S. 202, 212 (1982); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896).

33. Absent adequate procedural protections, substantive due process requires a "special justification" that "outweighs the individual's constitutionally protected interest in avoiding

physical restraint." *Zadvydas*, 533 U.S. at 690. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 693; *Demore*, 538 U.S. at 528. The broad policy set forth in *Yajure Hurtado* is not reasonably related to the purposes of prevent danger to the community or flight risk and violates substantive due process.

34. Additionally, procedural due process protects noncitizens against deprivation of liberty without adequate procedural protections, including notice and the opportunity to be heard. *A.A.R.P. v. Trump*, 145 S. Ct. 1364, 1367 (2025); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

35. In determining the proper procedure to protect a detained noncitizen's procedural due process rights under the Fifth Amendment, courts apply the three-part balancing test in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), weighing (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Black v. Decker*, 103 F.4th 133, 147-48 (2d Cir. 2024); *Gayle v. Warden Monmouth C'ty Corr. Facility*, 12 F. 4th 321, 331 (3d Cir. 2021); *see also Kashranov v. Jamison*, No. 2:25-CV-05555-JDW, 2025 WL 3188399, at *5 (E.D. Pa. Nov. 14, 2025) (applying *Mathews* to a claim identical to Petitioners).

**THE PROPER REMEDY IS RELEASE**

36. Given Respondents did not conduct any pre-deprivation assessment of Mr. Dos Santos Silva's risks prior to his detention, he merits release, as recognized by many courts in this District. *See, e.g.*, *Kourouma v. Jamison*, No. 26-cv-182, 2026 WL 120208, at *5 (E.D. Pa. Jan. 15, 2026) ("The Court will order the release of Petitioner because he was unlawfully detained.); *Kashranov*, 2025 WL 3188399, at *8 ("Because the Government detained Mr. Kashranov without the bond hearing that Section 1226(a) and the Due Process Clause require, Mr. Kashranov should not now be in custody."); *Centeno Ibarra v. Warden of the Fed. Det. Ctr. Philadelphia*, No. CV 25-6312, 2025 WL 3294726, at *8 (E.D. Pa. Nov. 25, 2025) ("Because a bond hearing is unnecessary, this Court will order his immediate release.").

37. Mr. Dos Santos Silva also merits release because a bond hearing before an immigration judge has been shown not to be an adequate remedy. Immigration judges have unreasonably refused to grant bond despite evidence that a noncitizen is not a danger or a flight risk, requiring petitioners to seek further relief from habeas courts. *See A.D. v. Oddo*, No. 25-460J, Memorandum Order at 7–8 (W.D. Pa. Feb. 12, 2026) (finding petitioner was unfairly prejudiced at his habeas ordered bond hearing and ordering immediate release); *Soto-Medina v. Lynch*, No. 1:25-CV-1704, 2026 WL 161002, at *2 (W.D. Mich. Jan. 21, 2026) (noting that at a habeas ordered bond hearing petitioner presented evidence that he is not a flight risk or danger, including "evidence of his family connections, that his daughter attended Chicago Public Schools, and that he has a pending asylum application and valid work authorization," that the "government did not present any evidence" against granting bond, but "the immigration judge denied Petitioner's request for bond because Petitioner had 'not established that he is not a flight risk'"); *Ramirez v. Lynch*, No. 1:25-CV-1800, 2026 WL 212932, at *1 (W.D. Mich. Jan. 27, 2026) (same).

38. A hearing before an immigration judge also does not provide a sufficient assurance of neutrality. Immigration judges, who serve at the pleasure of the U.S. Attorney General—a respondent in this matter—have been removed from service for not following the Executive's deportation goals.[1] And on January 13, 2026, Chief Immigration Judge Teresa L. Riley instructed immigration judges to continue denying bond despite a nationwide declaration against DHS's detention policies in *Maldonado Bautista v. Santacruz*, No. 25-cv-1873, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025).[2]

39. If, alternatively, this Court orders for a bond hearing, due process requires that the Government bear the burden of proof by clear and convincing evidence. *See Gayle*, 12 F.4th at 332 ("[W]hen such a severe deprivation is at issue, the Government must bear the burden of proof."). Such a "standard of proof serves to [properly] allocate the risk of error between the litigants and reflects the relative importance attached to the ultimate decision." *German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213 (3d Cir. 2020) (citing *Addington v. Texas*, 441 U.S. 418, 423 (1979)). The Third Circuit has long ordered for the government to bear a clear and convincing burden at a constitutionally-mandated bond hearing. *German Santos*, 965 F.3d at 214; *Guerrero-Sanchez v. Warden York Cnty. Prison*, 905 F.3d 208, 224 n.12 (3d Cir. 2018), *abrogated on other grounds by Johnson v. Arteaga-Martinez*, 596 U.S. 572 (2022). Other circuit courts have similarly held the same for Section 1226(a) detention. *Hernandez-Lara v. v. Lyons*, 10 F.4th 19, 39-40 (1st Cir 2021); *Velasco Lopez*, 978 F.3d at 855–56; *see also Soto-Medina*, 2026 WL 161002,

[1] *See, e.g.*, Joshua Goodman, *Military Lawyer Swiftly Fired from Immigration Bench After Defying Trump Deportation Push*, Times Union (updated Dec. 19, 2025**),** https://perma.cc/JWJ2-WH9E.
[2] *See Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista*, AILA Doc. No. 26011404, Am. Immigr. Laws. Ass'n (Jan. 16, 2026), https://perma.cc/9LDH-ZKAF (last visited Feb. 8, 2026).

at *5-11. Any assessment of custody should include consideration of alternatives to detention and ability to pay. *See, e.g.*, *Black*, 103 F.4th at 155.

40. Should this Court order for a bond hearing, it should preside over such a hearing rather than assign it to an EOIR administrative judge, for the reasons discussed above. *See Centeno-Martinez v. Jamison*, No. CV 25-3593, 2025 WL 3157711, at *3 (E.D. Pa. Nov. 12, 2025) (finding that the district court should hold the bond hearing because it is "a 'legal and logical concomitant' of habeas jurisdiction, particularly where delay risks perpetuating the constitutional injury"); *Swann v. Charlotte Mecklenburg Bd. of Educ*., 402 U.S. 1, 15 (1971) ("[T]he scope of a district court's equitable powers to remedy past wrongs is broad, for breadth and flexibility are inherent in equitable remedies."); *see also Zadvydas*, 533 U.S. at 700 (authorizing federal courts to "condition[]" a noncitizen's release "on any of the various forms of supervised release that are appropriate in the circumstances").

**FIRST CLAIM FOR RELIEF**
**Violation of the Immigration and Nationality Act**
**Unlawful Application of Mandatory Detention Provision**

41. Petitioner re-alleges and incorporates by reference the above paragraphs.

42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to grounds of inadmissibility. Specifically, it does not apply to Mr. Dos Santos Silva, who has been living in the United States since 2021, for over four years prior to his detention in 2026.

43. Mr. Dos Santos Silva was not "seeking admission" in 2026. At the time of his detention in Philadelphia on April 15, 2026, he was no longer engaged in that "present-tense

action." *Ndiaye*, 2025 WL 3229307 at *5. He therefore no longer met the requirements of Section 1225(b)(2)(A).

44. Respondents' unlawful and arbitrary application of 8 U.S.C. § 1225(b)(2) to Mr. Dos Santos Silva violates the INA.

**SECOND CLAIM FOR RELIEF**
**Violation of the Administrative Procedure Act**
**Agency Policy and Practice is Arbitrary, Capricious, and Contrary to Law**

45. Petitioner re-alleges and incorporates by reference the above paragraphs.

46. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

47. An agency decision that "runs counter to the evidence before the agency" is arbitrary and capricious. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins*., 463 U.S. 29, 43 (1983).

48. An agency decision that "failed to consider important aspects of the problem" is also arbitrary and capricious. *Dep't of Homeland Sec. v. Regents of the Univ. of Californi*a, 140 S. Ct. 1891, 1910 (2020).

49. Respondents have failed to articulate reasoned explanations for their decision to expand the use of mandatory detention to all noncitizens who entered without inspection, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

50. Respondents' application of 8 U.S.C. § 1225(b)(2) to Mr. Dos Santos Silva is arbitrary, capricious, and not in accordance with law.

**THIRD CLAIM FOR RELIEF**
**Violation of the Fifth Amendment Due Process Clause**
**Detention Without Any Relation to Limited Goals of Civil Immigration Detention Violates Substantive Due Process**

51. Petitioner re-alleges and incorporates by reference the above paragraphs.

52. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Substantive due process requires that immigration detention without a bond hearing be reasonably related to the goals of ensuring the appearance of noncitizens at future proceedings and preventing danger to the community. *Zadvydas*, 533 U.S. at 690.

53. The BIA's application of mandatory detention under 8 U.S.C. § 1225(b)(2) is not reasonably related to those goals and thus violates substantive due process. He has never been charged with nor convicted of any crime anywhere in the world. He has filed an application for asylum and intends to pursue this application in full. He wishes solely to reunite with his wife and children and to continue their lives as a family unit in Philadelphia, PA. Respondents' detention of Mr. Dos Santos Silva without any consideration of his particular flight or danger risks bears no relation to the limited goals of immigration detention.

54. Additionally, Respondents' re-detention of Mr. Dos Santos Silva without any pre-deprivation assessment of his flight or danger risks violates his substantive due process rights. When DHS "first released" Mr. Dos Santos Silva in 2021, "it could not have done so validly unless it did not consider him to be a flight risk or a danger to the community." *Lopez Benitez*, 795 F. Supp. 3d at 495. Its detention of Mr. Dos Santos Silva without showing what, if anything, has

changed in that calculus was improper. *See, e.g.*, *Kourouma*, 2026 WL 120208, at *5 ("This Court will order the release of Petitioner because he was unlawfully detained."); *Lopez Benitez*, 795 F. Supp. 3d at 499 (ordering release after rejecting the government's "suggestion that [its] 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") (cleaned up).

**FOURTH CLAIM FOR RELIEF**
**Violation of the Fifth Amendment Due Process Clause**
**Detention Without Any Procedures to Limit Erroneous Deprivation of a Core Private Right Violates Procedural Due Process**

55. Petitioner re-alleges and incorporates by reference the above paragraphs.

56. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V. Courts apply the *Mathews v. Eldridge* balancing test to determine what procedures the due process clause requires. *Gayle*, 12 F.4th at 331.

57. The first factor, the private interest that will be affected by the official action, clearly weighs in favor of Petitioner Because "[f]reedom from imprisonment . . . lies at the heart of the liberty" interest protected by due process. *Zadvydas*, 533 U.S. at 690.

58. The second factor also weighs in favor of Petitioner because there is a great risk of unnecessary detention since Respondents' interpretation of the statute does not permit any individualized determination of whether detention during removal proceedings is necessary. Respondents' procedures—or lack thereof—create an erroneously high risk of wrongly depriving those, like Mr. Dos Santos Silva, their protected interest in being free from government custody. *Kashranov*, 2025 WL 3188399, at *8.

59. The government has no legitimate interest in detaining Petitioner when detention is

not necessary to ensure his appearance at future hearings or protect the community, and less restrictive measures like a reasonable bond would serve those purposes. *Hernandez-Lara*, 10 F.4th at 32–33; *see Ousman D. v. Decker*, No. 20-cv-9646, 2020 WL 5587441, at *4 (D.N.J. Sept. 18, 2020) (holding that due process requires consideration of less restrictive alternatives to detention that would address the government's legitimate purpose); *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 241–42 (W.D.N.Y. 2019) (same). Additionally, affording noncitizens pre-deprivation review of their flight or danger risks presents a minimal burden and serves the government's interest in ensuring only those individuals that need to be detained are detained. *See Kashranov*, 2025 WL 3188399, at *8.

60. Respondents' detention of Petitioner without any hearing to determine whether that detention is necessary violates procedural due process.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Issue an order administratively staying Respondents from transferring Petitioner outside of this Court's geographic jurisdiction pending the Court's adjudication of the petition;[3]

[3] Petitioner requests a stay of his transfer to ensure that should this Court grant him relief, he may quickly and reasonably access such relief. *See, e.g.*, Order, ECF No. 4, *Zavala Ulloa v. Jamison*, 2:26-cv-00813-KSM (E.D.P.A. Feb. 9, 2026) (enjoining Respondents "from taking any action that would result in the removal of Petitioner from the Eastern District of Pennsylvania"); Order, ECF No. 3, *Lantiguez Alvarado v. Bondi*, No. 26-cv-768 (S.D.N.Y. Jan. 29, 2026) (administratively staying the noncitizen from transfer out of the Southern and Eastern Districts of New York, or the District of New Jersey).

At a recent show cause hearing, Judge Jerry W. Blackwell of the U.S. District Court for the District of Minnesota outlined the collateral difficulties of acquiring adequate government compliance if the government transfers a noncitizen outside of the habeas court's jurisdiction. He explained that

3) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

4) Issue a Writ of Habeas Corpus and order Petitioner's immediate release from custody without additional or new conditions;[4]

5) In the alternative, conduct a custody hearing at which Respondents must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after

---

it takes "repeat, after repeat, after follow-up, after follow-up with the Government" to receive information and procure a noncitizen's return. Tr. of Show Cause Hr'g, ECF No. 19, *Segundo A.P.G. et al. v. Bondi*, No. 26-cv-603 (D. Minn. Feb. 3, 2026), at 11. And he traced the difficulty in prescribing adequate remedies, describing:

> For example, if we say, release the person immediately, then we learn that, having transported [the noncitizen] to El Paso or New Mexico, [the government] do[esn't] bring him back. We learn that somebody is put out on the street with just the clothes on their backs and have to figure out how to get back here when they should not have been arrested here in the first place, let alone flown halfway across the continent of North America. And have to – so now we have to address that. We have to say, bring them back.
>
> And then we say, all right, so you brought them back. We can't have them released when it's minus 14 outside. And so now we have to address that. Don't release them in the circumstances that might endanger their health or safety.
>
> And so once that's addressed, then we learn they've been released, but now conditions have been imposed. That somebody who should not have been arrested in the first place is now being told, you're going to be released if you wear an ankle monitor, which the Court didn't order because the person was unlawfully detained in the first place. Then we have to go back and address that now.

*Id.* at 33–34.

[4] *See, e.g.,* Order, ECF 8, *Noicy v. Jamison et al.*, No. CV 26-1388, 2026 WL 637635 (E.D. Pa. Mar. 6, 2026) (ordering that "the Government shall not subject [Petitioner] to any conditions of release including the imposition of any and all GPS monitoring technology or devices").

consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present;

6) Issue an order requiring Respondents to return Petitioner's personal property, including identification and documents;[5]

7) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law, *see Michelin v. Warden Moshannon Valley Corr. Ctr.*, --- F.4th ---, 2026 WL 263483 (3d Cir. Feb. 2, 2026); and

8) Grant such further relief as the Court deems just and proper.

Dated: April 16, 2026

Respectfully submitted,

/s/ Matthew P. Egler DiFerdinando, Esq.
Attorney Matthew P. Egler DiFerdinando
(Pennsylvania Bar ID 327866)
DEFENDER ASSOCIATION OF PHILADELPHIA
1441 Sansom Street
Philadelphia, PA 19102
T: 267-765-6576
E: mpeglerdiferdinando@philadefender.org
*Pro Bono Counsel for Petitioner*

[5] *See, e.g.,* Order, ECF 6, *Juarez Francisco v. Jamison et al.*, No. CV 26-1321, 2026 WL 607988 (E.D. Pa. Mar. 4, 2026) (ordering "immediately upon his release [return] all personal belongings confiscated upon or during his detention, including his identification documents"); Order, ECF 20, *Abreu v. Baker et al.*, Civil No. 25-3088-BAH (D. Md) (Dec. 18, 2025) (ordering return of petitioner's personal property confiscated at the time of her detention); *Ortiz Martinez v. Wamsley*, No. 2:25-CV-01822-TMC, 2025 WL 2899116, at *5 (W.D. Wash. Oct. 10, 2025) (same).

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner as a member of Petitioner's legal team. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 16, 2026

Respectfully submitted,

/s/ Matthew P. Egler DiFerdinando, Esq.
Attorney Matthew P. Egler DiFerdinando
(Pennsylvania Bar ID 327866)
DEFENDER ASSOCIATION OF PHILADELPHIA
1441 Sansom Street
Philadelphia, PA 19102
T: 267-765-6576
E: mpeglerdiferdinando@philadefender.org
*Pro Bono Counsel for Petitioner*

**CERTIFICATE OF SERVICE**

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore send a courtesy copy via email to the office of the United States Attorney for the Eastern District of Pennsylvania at the following email addresses:

desiree.wilkins@usdoj.gov susan.becker@usdoj.gov

anthony.stjoseph@usdoj.gov gregory.david@usdoj.gov

Dated: April 16, 2026

Respectfully submitted,

/s/ Matthew P. Egler DiFerdinando, Esq.
Attorney Matthew P. Egler DiFerdinando
(Pennsylvania Bar ID 327866)
DEFENDER ASSOCIATION OF PHILADELPHIA
1441 Sansom Street
Philadelphia, PA 19102
T: 267-765-6576
E: mpeglerdiferdinando@philadefender.org
*Pro Bono Counsel for Petitioner*

JS 44 (Rev. 04/21)

# 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 initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

## I. (a) PLAINTIFFS

Gesiel Dos Santos Silva

**(b)** County of Residence of First Listed Plaintiff Philadelphia
*(EXCEPT IN U.S. PLAINTIFF CASES)*

**(c)** Attorneys *(Firm Name, Address, and Telephone Number)*

*Please See Attached

## DEFENDANTS

Please See Attached

County of Residence of First Listed Defendant _____
*(IN U.S. PLAINTIFF CASES ONLY)*

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

U.S. Attorney for the Eastern District of Pennsylvania

## II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

## III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*

*(For Diversity Cases Only)*

| | PTF | DEF | | PTF | DEF |
|---|---|---|---|---|---|
| Citizen of This State | ☐ 1 | ☐ 1 | Incorporated *or* Principal Place of Business In This State | ☐ 4 | ☐ 4 |
| Citizen of Another State | ☐ 2 | ☐ 2 | Incorporated *and* Principal Place of Business In Another State | ☐ 5 | ☐ 5 |
| Citizen or Subject of a Foreign Country | ☐ 3 | ☐ 3 | Foreign Nation | ☐ 6 | ☐ 6 |

## IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

**CONTRACT**
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

**TORTS**

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

**FORFEITURE/PENALTY**
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

**LABOR**
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

**IMMIGRATION**
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

**BANKRUPTCY**
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

**INTELLECTUAL PROPERTY RIGHTS**
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

**SOCIAL SECURITY**
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

**FEDERAL TAX SUITS**
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

**OTHER STATUTES**
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

**REAL PROPERTY**
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

**CIVIL RIGHTS**
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

**PRISONER PETITIONS**

**Habeas Corpus:**
- ☒ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

**Other:**
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

## 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:

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A **CLASS ACTION** UNDER RULE 23, F.R.Cv.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
4/16/2026

SIGNATURE OF ATTORNEY OF RECORD
/s/ Matthew P. Egler DiFerdinando

**FOR OFFICE USE ONLY**

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

**Defendants**
J.L. Jamison, Warden, Federal Detention Center, Philadelphia;

John E. Rife, Acting Field Office Director, Immigration and Customs Enforcement,

Markwayne Mullin, Secretary of the Department of Homeland Security;

Todd Blanche, U.S. Attorney General;

U.S. Department of Homeland Security; and

Executive Office of Immigration Review.

**Attorneys**
Matthew P. Egler DiFerdinando, Esq.
DEFENDER ASSOCIATION OF PHILADELPHIA
1441 Sansom St.
Philadelphia, PA 19102
T: (267) 765-6576
E: mpeglerdiferdinando@philadefender.org

**UNITED STATES DISTRICT COURT**
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**DESIGNATION FORM**

Place of Accident, Incident, or Transaction: Philadelphia, PA

***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? If yes, attach an explanation. 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:

☒ 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.

Official Website of the Department of Homeland Security



# Search Results: 1

**GESIEL DOS SANTOS-SILVA**

**Country of Birth :** Brazil
**A-Number:** [redacted]
**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

### Helpful Info

Status of a Case

About the Detainee Locator

Brochure

ICE ERO Field Offices

ICE Detention Facilities

Privacy Notice

### External Links

Bureau of Prisons Inmate Locator

