

# United States Court of Appeals For the First Circuit

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No. 26-1097

YARIMA GONZALEZ CRESPO, IN REPRESENTATION OF ALBETO PIERRE,

Petitioner-Appellant,

v.

REBECCA GONZÁLEZ-RAMOS, PAMELA BONDI, KRISTI NOEM,  
CALEB VITELLO,

Respondents-Appellees.

JOHN DOE 1; JOHN DOE 2,

Respondents.

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## **MOTION FOR EXPEDITED APPEAL AND REQUESTING ORDER TO RETURN THE PETITIONER TO THE DISTRICT OF PUERTO RICO AND NOTICE OF SUPPLEMENTAL AUTHORITY**

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February 6, 2026

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**TO THE HONORABLE COURT:**

Comes now the Petitioner through his legal counsels and very respectfully states, prays and requests as follows:

**Petitioner Requests an Expedited Appeal and to Order Respondents the Immediate Return of Petitioner to the District of Puerto Rico:**

In the captioned case the Petitioner filed a Motion to Stay Proceedings Pending Appeal and the District Court denied said motion as moot. (Dkts. 34 and 35)

A district court has broad discretion to issue a stay pending the outcome of an appeal. *See Vaquería Tres Monjitas, Inc. v. Comas*, 5 F. Supp. 3d 179, 181 (D.P.R. 2014). In deciding whether a stay is warranted, courts consider the following factors:

(1) whether the stay applicant has made a strong showing that he is likely to succeed on the merits; (2) whether the applicant will be irreparably injured absent a stay; (3) whether issuance of the stay will substantially injure the other parties interested in the proceeding; and (4) where the public interest lies. *Nken v. Holder*, 556 U.S. 418, 426 (2009) (quoting *Hilton v. Braunskill*, 481 U.S. 770 (1987); *Diaz-Colon v. Toledo-Davila*, 980 F. Supp. 2d 214, 217 (D.P.R. 2013).

Although the Petitioner was entitled to the Stay, the District Court continued the process to transfer the case to the Middle District of Florida, where the Petitioner was allegedly taken by the immigration authorities.

The Appellants Brief in this case was filed on February 3, 2026 and Case number 26-1097 was assigned and registered before the District Court on February 4, 2026.

On February 5, 2026, an *Opinion and Order* was issued by the US District Court for the Middle District of Florida granting the Amended Petition for Writ of Habeas Corpus giving the Government 10 days to hold a bond hearing or to release the Petitioner (See Exhibit 1, Under Local Rule 28 (j))

Petitioner's appeal of the Order at Dkt. 30 presents a "serious legal question []"of first impression in the First Circuit. *Providence J.*, 595 F.2d at 890. See also appealed Order from January 20, 2026 (Dkt. 30).

The question on appeal is *whether jurisdiction is retained by the US District in which the noncitizen detainee was present at the moment of the habeas corpus filing*. The Court's Order states that it is a question not addressed yet by the First Circuit. (Dkt. 30)

The Petitioner respectfully submits that his appeal raises the substantial question of whether *the Second Circuit, in the Case Rumeysa Ozturk*, provides the test for whether in cases involving immigrants' detainees removal, the jurisdiction is retained by the District Court in which the detainee was present at the moment of the habeas filing. If the answer is "yes," the Petitioner is likely to prevail on appeal.

In addition, Mr. Pierre not only has demonstrated that he is likely to prevail

on the merits regarding the jurisdictional issue (See Exhibit 2, *Opinion and Order* in Case Number 26-1045, ordering the Government to return the Petitioner to the District of Puerto Rico) but also on the merits of his Petition for Writ of Habeas Corpus as proved in Exhibit 1.

Today we have learned that Mr. Pierre will have a bond hearing scheduled in Florida for February 12, 2026, putting an undue burden on the most vulnerable party in all this context.

Mr. Pierre was arrested in a racial profiling operation, without an arrest warrant and without the right to have a bond hearing. Due to the manifest error of transferring him to Florida, the *Habeas Corpus* is the only legal recourse he has to be returned to the District of Puerto Rico and to have his bond hearing in Puerto Rico, *where his family resides, as well as the community members and potential witnesses*.

Mr. Pierre was illegally detained and abducted in Puerto Rico. Petitioner was transferred from a Puerto Rico detention center to the continental United States jeopardizing his constitutional rights. ***The transfer occurred after this lawsuit was on place.*** *Ozturk v. Trump*, Case No. 25-cv-10695-DJC; (2<sup>nd</sup> Cir. 25-1019) A federal court of appeals ordered the Trump administration to comply with a lower court order that requires it to transfer Tufts Ph.D. student Rumeysa Ozturk from a detention facility in Louisiana to Vermont. he Court also ruled on the venue issue

concluding that the proper venue is in the Vermont Court where Rumeysa was originally detained. (The District of Vermont is likely the proper venue to adjudicate Öztürk's habeas petition because, at the time she filed, she was physically in Vermont, and her immediate custodian was unknown. p. 2) (Öztürk's interest in participating in her scheduled habeas proceedings in person outweighs the government's purported administrative and logistical costs. p. 2) (Because Öztürk was detained in Vermont at the time her habeas petition was filed, Judge Denise L. Casper of the District of Massachusetts soon transferred this case to the District of Vermont. p. 6) In this case the Court ordered the return of the detainee from Louisiana to Vermont. (The district court also ordered that Öztürk be transferred to immigration custody in the District of Vermont in order to facilitate those proceedings, p. 6)

Mr. Pierre is challenging the legality of his detention and removal from Puerto Rico while he has pending regular removal proceedings and has not received individualized consideration for release that should be afforded to people in that position. His petition for writ of habeas corpus was filed while he was detained in the District of Puerto Rico. Therefore, the Court with jurisdiction is the US District Court for the District of Puerto Rico. *Öztürk*, supra.

### **The Irreparable Harm Absent an Expedited Appeal**

If this Court of Appeals does not address our request in an expedited fashion,

the Petitioner will continue suffer from constitutional violations. A nationwide pattern of dangerous and inhumane conditions exists across the network of detention centers operated by or for U.S. Immigration and Customs Enforcement (ICE). This pattern has been extensively documented by human rights organizations and investigative journalists and is reflected in the desperate account of those trapped inside.<sup>1</sup> The systemic failures consistently documented across the ICE detention system render any placement into ICE custody an immediate threat to a detainee’s life, health, and constitutional rights. Petitioner was transferred initially to one of the worst scenarios, “Alligator Alcatraz.”

The ICE detention system is critically operating at maximum capacity, holding tens of thousands more individuals than it was designed for.<sup>2</sup> This has led to reports of detainees being held for days in temporary “hold rooms” in violation of ICE’s own policies, forced to sleep on bare concrete floors or with cardboard boxes as mattresses.<sup>3</sup> In some facilities, individuals are confined in chain-link cages and subjected to sensory deprivation, unable to see daylight or know the time of day,

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<sup>1</sup> John Holmes, “*You Feel Like Your Life is Over*,” Human Rights Watch (July 21, 2025), <https://www.hrw.org/report/2025/07/21/you-feel-like-your-life-is-over/abusive-practices-at-three-florida-immigration>.

<sup>2</sup> Miriam Jordan & Jazmine Ulloa, Concerns grow over dire conditions in immigrant detention, The New York Times (July 2, 2025), <https://www.nytimes.com/2025/06/28/us/immigrant-detention-conditions.html>.

<sup>3</sup> Casey Tolan & Isabelle Chapman, Immigrants spend days in ‘miserable’ ICE hold rooms, violating longstanding policy, CNN US (September 8, 2025), <https://www.cnn.com/2025/09/08/us/detainees-ice-immigrants-hold-rooms>.

enduring torturous like conditions.<sup>4</sup>

### **The Right to Counsel:**

It was difficult for Pierre's immigration attorney to communicate with him or receive accurate information of his process because Respondents' systems did not enable us to accurately know and confirm the detainee location at the time of the filing on December 29, 2025. The unique circumstances of this situation could have called for the applicability of exceptions to the immediate custodian rule. Lack of counsel assistance in these circumstances could have the final outcome of a deportation.

Individuals detained in immigration operations have a right to counsel rooted in the Due Process Clause of the Fifth Amendment. See *Orantes-Hernandez v. Thornburgh*, 919 F.2d 549, 554 (9th Cir. 1990). Counsel for the Petitioner is currently in Puerto Rico.

### **Respondents Will Not Be Harmed by Petitioner's Request.**

Given the narrow question presented, the Petitioners' appeal should be resolved in short order. In addition, the Petitioner is the party with the most compelling interest in the speedy resolution of this issue. The Government will not

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<sup>4</sup> Peter Charalambous & Laura Romero, 'It's like you're dead alive': Families, advocates allege inhumane conditions at 'Alligator Alcatraz', ABC News (August 14, 2025), <https://abcnews.go.com/US/youre-dead-alive-families-advocates-allege-inhumane-conditions/story?id=124645763>.

suffer any harm with the return of the petitioner to the District of Puerto Rico and to hold the bond hearing in Puerto Rico rather than Florida.

Finally, a uniform jurisdictional rule should be developed amongst the US Circuit Courts and as stressed the District Court, the First Circuit has not decided on this jurisdictional issue. As the District Court stated in *Cruz v. González*, Civil No. 26-1028 (GMM): “Indeed, this Court understands that the opposite is true: proper enforcement of immigration laws is in the public interest; and the Government will not be harmed by - nor do they have an interest in - the violation of the plain text of federal law. *See, e.g., Loa Caballero*, 2025 WL 2977650, at \*9 n.7.”

### CONCLUSION

In light of the above, this Court may revoke the transfer determination made by the District Court for the District of Puerto Rico, make a determination that jurisdiction belongs to the US District were the Petitioner was detained and under custody at the moment of the filing of the Petition for Writ of Habeas Corpus and order the Government to return the Petitioner to the jurisdiction of the District of Puerto Rico to hold the bond hearing in Puerto Rico.

**Wherefore**, the Petitioner requests from this Court of Appeals to stay any pending process before the Immigration Court until the Petitioner is returned to the District of Puerto Rico.

Respectfully submitted,

Date: February 6, 2026.

*s/Steven P. Lausell Recurt*

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*s/Rafael E. Rodríguez Rivera*

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## CERTIFICATE OF SERVICE

I hereby certify that, on February 6, 2026, I electronically filed the foregoing document with the United States Court of Appeals for the First Circuit by using the CM/ECF system, which will send notifications of such filing to all CM/ECF counsel of record.

*s/Fermín L. Arraiza Navas*  
FERMÍN L. ARRAIZA NAVAS