

JUN 16 2025

BY: DANIEL J. MCGOY, CLERK *[Signature]* IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

Patel, Mitalben Bhavinkumar)
Alien No.: )
Petitioner)
v.)
Pam Bondi,)
ATTORNEY GENERAL;)
Kristi Noem)
SECRETARY OF THE)
DEPARTMENT OF HOMELAND)
SECURITY;)
Mellissa B. Harper)
U.S. ICE FIELD OFFICE DIRECTOR)
FOR NEW ORLEANS FIELD OFFICE;)
Todd Lyons)
U.S. ICE ACTING DIRECTOR)
And Unknown, WARDEN,)
SOUTH LOUISIANA ICE PROCESSING)
CENTER,)
Respondents.)

Civil Action No. 25-cv-0837 Sec P

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241

Petitioner, Mitalben Bhavinkumar Patel, hereby petitions this honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 2241, 5 U.S.C. § 551 et seq., 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651, for declaratory and injunctive relief to protect her rights under both the Due

Process Clause of the Fifth Amendment to the Constitution and applicable federal law. In support of this petition, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (“ICE”). Petitioner is detained at the South Louisiana Correctional Center in Louisiana. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104 – 208, 110 Stat. 1570, and the Administration Procedure Act (“APA”), 5 U.S.C. § 701 et seq.

3. This Court has jurisdiction under 28 U.S.C. § 2441; art. I § 9, cl.2 of the United States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the all Writs Act, 28 U.S.C. § 1651.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

VENUE

5. 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 Western District of Louisiana, the judicial district in which Petitioner detained. Petitioner, Mitalben Bhavinkumar Patel, is presently held in immigration custody at South Louisiana Correctional Center in Basile, Louisiana, under the authority of Immigration and Customs Enforcement (ICE), Department of Homeland Security.

In this regard, venue lies in the Western District of Louisiana, the judicial district where the Petitioner is currently detained. 28 U.S.C. § 2241 et seq. and 28 U.S.C. § 1391. Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992); Braden v. 30th Judicial Circuit Court, 410 U.S. 484 (1973) (holding that a writ of habeas corpus “shall be directed to the person having custody of the person detained.”).

PARTIES

6. Petitioner is a native and citizen of India. *Please see Exhibit 1*, Copy of Petitioner’s passport. Petitioner is married to Bhavinkumar Patel who is a citizen of Panama. *Please see Exhibit 2*, Copy of Petitioner’s husband Bhavinkumar’s Patel Passport. *Please also see Exhibit 3*, Petitioner’s Marriage Certificate. Petitioner entered the United States on a B-2 Tourist Visa. Petitioner was taken into ICE custody on April 17, 2025, along with her husband Bhavinkumar Patel. Petitioner’s husband is detained at Winnfield Detention Center in Louisiana, while Petitioner is detained at South Louisiana Correctional Center in Basile, Louisiana and has remained in ICE custody continuously since that date without an issued or served Notice to Appear (NTA), without a charging document initiating formal removal proceedings, and despite having accepted Voluntary Departure weeks ago by ICE authority. Further, Petitioner’s husband Bhavinkumar Patel has a pending E-2 Treaty Investor Visa application with USCIS. Petitioner has no criminal history, poses no flight risk, and has significant business and family ties to the United States. Petitioner Mitalben Patel and her husband Bhavinkumar Patel has signed voluntary return when they got detained. ICE has already released her husband Bhavinkumar and sent him to his country Panama on June 1, 2025. But they have nether released nor processed her travel document yet. Her prolonged detention violates the Fifth Amendment’s Due Process Clause.

7. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Nationality Act (INA). She is generally charged with the enforcement of the Immigration and Nationality Act, as amended (“INA”), and is further authorized to delegate such powers and authority to subordinate employees of the U.S. Department of Justice. See 8 U.S.C. § 1103(a) (Supp. V 1999). More specifically, the Attorney General is responsible for adjudicating applications for lawful permanent resident status, non-immigrant classifications, as well as the apprehension and detention of aliens alleged to be unlawfully present in the United States and the conduct of proceedings to compel their expulsion. The Board of Immigration Appeals and the Offices of the Immigration Judge are all agencies within the Department of Justice, Executive Office for Immigration Review (“EOIR”) to whom the Attorney General’s authority has in part been delegated and are subject to the Attorney General’s supervision.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Ms. Noem is the legal custodian of Petitioner.

9. Respondent Mellissa B. Harper is the New Orleans ICE Field Office Director and is responsible for ICE policies and operations in the New Orleans District, which stretches across Alabama, Arkansas, Louisiana, Mississippi, and Tennessee. Petitioner is currently detained by ICE within this area of responsibility. Along with the other named Defendants, Defendant Harper is responsible for determinations concerning Petitioner and subsequent ICE decisions to detain and pursue removal of Petitioner. She is named in her official capacity.

10. Defendant Todd Lyons is the Acting Director of ICE and has authority over the operations of ICE. In that capacity and through his agents, Defendant Lyons has broad authority over the operation and enforcement of the immigration laws.

11. Respondent Unknown is the warden of South Louisiana Correctional Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

12. Petitioner, Mitalben Bhavinkumar Patel, is a native and citizen of India. Petitioner is married to Bhavinkumar Patel, who is a citizen of Panama.
13. Petitioner was detained by ICE on April 17, 2025, in Knoxville, Tennessee, based on an anonymous tip related to purported unauthorized employment.
14. Petitioner was transferred to South Louisiana Correctional Center in Louisiana and has remained detained for more than 30 days.
15. No Notice to Appear (NTA) has been filed with the immigration court or served on her. Thus, removal proceedings have not formally commenced.
16. Petitioner was offered Voluntary Departure/voluntary return, which she accepted in good faith and signed the necessary documents. ICE has yet to effectuate that departure or release her from custody.
17. Petitioner's husband Bhavinkumar Patel was also arrested and detained with the Petitioner for the same allegations, and he has also signed voluntary return. ICE has already released her husband Bhavinkumar and sent him to his country Panama on June 1, 2025. But they have nether released nor processed her travel document yet.

18. Petitioner has no prior immigration violations, no criminal history, and no pending criminal charges.
19. Petitioner's husband is a majority investor in Mahadev Investment, LLC, doing business as a Comfort Suites-brand hotel which was approved for conversion to Spark by Hilton and holds a pending E-2 visa petition. In order to be eligible for E-2 visa status, a person must be from a treaty country and must have invested or actively be in the process of investing in the United States. Petitioner's husband has invested \$225,000 in Mahadev Investment, LLC.
20. Petitioner's son is in lawful F-1 student status at Embry-Riddle University in Florida.
21. Petitioner poses no risk to public safety and is not a flight risk, and her continued detention is not justified under the law.

RIGHT TO JUDICIAL INTERVENTION

22. The basis for this Court's habeas jurisdiction to review the Petitioner's claim is contained in 28 U.S.C. § 2241, the general grant of habeas jurisdiction bestowed on the federal district courts, which neither the Antiterrorism and Effective Death Penalty Act of 1996 (the "AEDPA"), Magana-Pizano v. INS, 200 F.3d 603, 607 (9th Cir. 1999) (holding that IIRIRA § 309(c)(4)(G) repealed the Court's jurisdiction over petitions by criminal aliens, but did not remove jurisdiction for Writs of Habeas Corpus); see Mojica v. Reno, et al., 970 F. Supp. 130, 1997 WL 400734 (E.D.N.Y. July 11, 1997); Yesil v. Reno, 958 F. Supp. 828 (S.D.N.Y. 1997), nor the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 3009 (Sept. 30, 1996), eliminated nor amended. See St. Cyr v. INS, 533 U.S. 289 (2001); Calcano-Martinez v. INS, 522 U.S.

348 (2001) (holding that the Writ of Habeas Corpus was not repealed by IIRIRA or the AEDPA).

23. The Petitioner is also entitled to have her detention under color of law reviewed under the common law and as a matter of constitutional right. The Writ of Habeas Corpus is guaranteed by the Constitution and cannot be suspended except where “in Cases of Rebellion or Invasion the Public Safety may require it.” U.S. Constitution, Art. I, § 9, Cl. 2 (Suspension Clause).

24. In the present action, the Petitioner asserts that her detention by Respondents is in violation of the Constitution and the Administrative Procedures Act (“APA”), 5 U.S.C. § 702.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

25. This Petition for Writ of Habeas Corpus is brought pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant relief to individuals held in custody in violation of the Constitution, laws, or treaties of the United States. Petitioner is currently detained in immigration custody without a charging document served or filed, and without proceedings commenced, in violation of statutory and constitutional protections.

26. The Supreme Court has recognized that deportation touches on important liberty issues, and that aliens, especially long-time permanent residents, must be accorded due process. Rosenburg v. Flueti, 374 U.S. 449, 458 (1962). As the length of lawful residence increases, so does an alien’s liberty interest in remaining in the United States. Landon v. Plasencia, 459 U.S. 21, 32-33 (1982).

27. The Immigration and Nationality Act (INA) provides specific statutory provisions governing immigration detention. Under 8 U.S.C. §1226, detention is permitted pending a decision on whether the individual is to be removed from the United States - but only after

removal proceedings have commenced through the issuance and service of a Notice to Appear (NTA). No such NTA has been served or filed in Petitioner's case, thus no jurisdiction has vested in the immigration court, and detention under §1226 is unauthorized.

28. Because no NTA has been served or filed, Petitioner's detention is outside the statutory scope of both pre-removal and post-removal detention authority under §§1226. The government is detaining her without jurisdiction, process, or lawful authority.

29. Furthermore, Petitioner accepted Voluntary Departure/Voluntary returns weeks ago, which ICE has failed to effectuate. Prolonged detention after an individual has agreed to depart is inconsistent with the limited purposes of civil detention under the INA. Petitioner's continued detention violates her procedural and substantive due process rights under the Fifth Amendment, as it serves no legitimate government interest, lacks procedural safeguards, and subjects her to open-ended confinement without justification, charge, or recourse.

CLAIMS FOR RELIEF

COUNT ONE

STAUTORY VIOLATIONS

30. Petitioner realleges and incorporates by reference paragraph 1 through 28 above.

31. Under the INA, detention authority is triggered by the service and filing of a Notice to Appear. See 8 U.S.C. § 1229; 8 C.F.R. § 1003.14(a) ("Jurisdiction vests, and proceedings commence, when a charging document is filed with the Immigration Court."). Until the NTA is issued and served, removal proceedings have not lawfully commenced, and there is no basis for continued detention under 8 U.S.C. § 1226 or § 1231.

32. ICE has not provided a valid legal basis for Petitioner's continued detention. Petitioner's bond redetermination has been denied by Basile Immigration Court. As recognized by the Basile Immigration Judge, jurisdiction cannot be exercised over a bond redetermination hearing in the absence of a served NTA.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

33. Petitioner realleges and incorporates by reference paragraphs 1 through 28 above.

34. Petitioner's continued detention violates his rights to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

35. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents might have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, since it is not significantly likely that he will be removed in the reasonably foreseeable future. In Zadvydas v. Davis, 533 U.S. 678 (2001), court recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal.

36. Petitioner's continued detention violates her rights under the Due Process Clause of the Fifth Amendment to the United States Constitution, which protects noncitizens, including those subjects to civil immigration detention, from arbitrary and indefinite deprivations of liberty.

37. Freedom from physical detention is a core liberty interest protected by the Due Process Clause. Civil detention, while permissible in limited immigration contexts, must be reasonable in duration and directly tied to a legitimate and compelling government interest.

38. Once removal is not reasonably foreseeable, continued detention becomes arbitrary and capricious, and is therefore unconstitutional. The Court interpreted 8 U.S.C. § 1231(a)(6) to limit post-removal-order detention to a presumptively reasonable period of six months. Beyond that, the government must demonstrate that removal is significantly likely to occur in the reasonably foreseeable future.

39. Although Petitioner has signed a Voluntary Departure/Voluntary return, ICE has taken no action to facilitate her departure. Nor has ICE served or filed a Notice to Appear (NTA) to initiate removal proceedings. As a result, Petitioner is detained with no removal order, no pending proceedings, and no set timeline for removal. Alongwith Petitioner, her husband Bhavinkumar Patel has also signed the voluntary departure. ICE has already released her husband Bhavinkumar and sent him to his country Panama on June 1, 2025. But they have nether released nor processed her travel document yet.

40. Petitioner's case is even more troubling because no removal proceedings are pending, no charging document has been filed, and she has been effectively left in legal limbo, despite ICE's acceptance of voluntary departure. The government cannot claim a compelling interest in detention for removal purposes when it is failing to initiate removal proceedings or take steps to execute voluntary departure.

41. Further, Petitioner has no criminal history, has substantial business and family ties to the United States, and poses no risk to public safety or flight. As such, continued detention is not narrowly tailored to serve any compelling governmental interest and is constitutionally impermissible.

42. Therefore, Petitioner's continued detention violates the substantive due process protections of the Fifth Amendment, and this Court should grant the writ and order her immediate release, or such other relief as may be just and proper.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

43. Petitioner realleges and incorporates by reference paragraphs 1 through 28 above.

44. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that she should not be detained. Petitioner has a strong liberty interest in avoiding prolonged and indefinite immigration detention without meaningful review. Yet, since being taken into custody on April 17, 2025, she has been deprived of a timely and meaningful opportunity to challenge his detention:

- No Notice to Appear (NTA) has been filed or served to initiate removal proceedings.
- Custody redetermination hearing has been denied due to the lack of jurisdiction in immigration court.

45. Although Petitioner initially sought a bond hearing before the Basile Immigration Court, the Immigration Judge denied the bond hearing and properly noted that, in the absence of an NTA, the court lacked jurisdiction (see 8 C.F.R. § 1003.14(a)). Petitioner's bond is denied only because it was clear that the court could not proceed absent a filed NTA - not due to waiver or lack of merit.

46. ICE's failure to provide any administrative review mechanism, coupled with their inaction in processing the Voluntary Departure/Voluntary return already signed by Petitioner, violates the most basic principles of procedural due process. There is no mechanism for

Petitioner to obtain a custody determination, no timeline for action, and no ability to appeal the continued detention, even as it becomes unreasonably prolonged. The failure to provide neutral, individualized review of prolonged detention raises serious constitutional concerns. The absence of any meaningful process by which Petitioner can challenge her confinement violates the procedural due process protections of the Fifth Amendment.

PRAYER FOR RELIEF

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

- 1) Assume Jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Alternatively, order ICE to promptly effectuate the accepted Voluntary Departure/Voluntary return to Panama, her country of residence where she resides with her husband Bhavinkumar Patel;
- 5) Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury that the foregoing is true and correct.

CERTIFICATE OF SERVICE

I, _____ hereby certify that a copy of the foregoing was mailed First class postage prepaid to the office of the Attorney General at the below mentioned address:

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530-0001

Kristi Noem
Office of the General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave, SE Washington, DC 20528-0485

Mellissa B. Harper
New Orleans ICE Field Office Director
1250 Poydras St, Ste. 325, New Orleans, LA 70113

Todd Lyons
Acting Director of U.S. Immigration and Customs Enforcement
c/o Office of the Principal Legal Advisor (OPLA)
500 12th Street SW, Mail Stop 5900 Washington, D.C. 20536-5900

Unknown
Warden, South Louisiana Correctional Center
3843 E Stagg Ave, Basile, LA 70515

Respectfully submitted,

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
LAFAYETTE DIVISION

Patel, Mitalben Bhavinkumar)
Alien No.: A221 440 236)
) Civil Action
No. _____)
Petitioner)
)
)
v.)
)
)
)
Pam Bondi,)
ATTORNEY GENERAL;)
Kristi Noem)
SECRETARY OF THE)
DEPARTMENT OF HOMELAND)
SECURITY;)
Mellissa B. Harper)
U.S. ICE FIELD OFFICE DIRECTOR)
FOR NEW ORLEANS FIELD OFFICE;)
Todd Lyons)
U.S. ICE ACTING DIRECTOR)
And Unknown, WARDEN,)
SOUTH LOUISIANA ICE PROCESSING)
CENTER,)
)
Respondents.)

PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT
TO 28 U.S.C. §2241

Petitioner, Mitalben Bhavinkumar Patel, hereby petitions this honorable Court for a writ of habeas corpus to remedy Petitioner's unlawful detention by Respondents pursuant to 28

U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651, for declaratory and injunctive relief to protect her rights under both the Due Process Clause of the Fifth Amendment to the Constitution and applicable federal law. In support of this petition, Petitioner alleges as follows:

CUSTODY

1. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement (“ICE”). Petitioner is detained at the South Louisiana Correctional Center in Louisiana. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

2. This action arises under the Constitution of the United States, and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), Pub. L. No. 104 – 208, 110 Stat. 1570, and the Administration Procedure Act (“APA”), 5 U.S.C. § 701 et seq.

3. This Court has jurisdiction under 28 U.S.C. § 2441; art. I § 9, cl.2 of the United States Constitution; and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the all Writs Act, 28 U.S.C. § 1651.

4. Petitioner has exhausted any and all administrative remedies to the extent required by law.

VENUE

5. 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 Western District of Louisiana, the judicial district in which Petitioner detained. Petitioner, Mitalben Bhavinkumar Patel, is presently held in immigration custody at South Louisiana Correctional Center in Basile, Louisiana, under the authority of Immigration and Customs Enforcement (ICE), Department of Homeland Security. In this regard, venue lies in the Western District of Louisiana, the judicial district where the Petitioner is currently detained. 28 U.S.C. § 2241 et seq. and 28 U.S.C. § 1391. Brittingham v. United States, 982 F.2d 378, 379 (9th Cir. 1992); Braden v. 30th Judicial Circuit Court, 410 U.S. 484 (1973) (holding that a writ of habeas corpus “shall be directed to the person having custody of the person detained.”).

PARTIES

Petitioner is a native and citizen of India. *Please see Exhibit 1*, Copy of Petitioner's passport. Petitioner is married to Bhavinkumar Patel who is a citizen of Panama. *Please see Exhibit 2*, Copy of Petitioner's husband Bhavinkumar's Patel Passport. *Please also see Exhibit 3*, Petitioner's Marriage Certificate. Petitioner entered the United States on a B-2 Tourist Visa. Petitioner was taken into ICE custody on April 17, 2025, along with her husband Bhavinkumar Patel. Petitioner's husband is detained at Winnfield Detention Center in Louisiana, while Petitioner is detained at South Louisiana Correctional Center in Basile, Louisiana and has remained in ICE custody continuously since that date without an issued or served Notice to Appear (NTA), without a charging document initiating formal removal proceedings, and despite having accepted Voluntary Departure weeks ago by ICE authority. Further, Petitioner's husband Bhavinkumar Patel has a pending E-2 Treaty Investor Visa application with USCIS. Petitioner has no criminal history, poses no flight risk, and has significant business and family ties to the United States. Petitioner Mitalben Patel and her husband Bhavinkumar Patel has signed voluntary return when they got detained. ICE has already released her husband Bhavinkumar and sent him to his country Panama on June 1, 2025. But they have nether released nor processed her travel document yet. Her prolonged detention violates the Fifth Amendment's Due Process Clause.

7. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Nationality Act (INA). She is generally charged with the enforcement of the Immigration and Nationality Act, as amended ("INA"), and is further authorized to delegate such powers and authority to subordinate employees of the U.S. Department of Justice. See 8 U.S.C. § 1103(a) (Supp. V 1999). More specifically, the Attorney General is responsible for adjudicating applications for lawful permanent resident status, non-immigrant classifications, as well as the apprehension and detention of aliens alleged to be unlawfully present in the United States and the conduct of proceedings to compel their expulsion. The Board of Immigration Appeals and the Offices of the Immigration Judge are all agencies within the Department of Justice, Executive Office for Immigration Review ("EOIR") to whom the Attorney General's authority has in part been delegated and are subject to the Attorney General's supervision.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the administration

such, Ms. Noem is the legal custodian of Petitioner.

9. Respondent Mellissa B. Harper is the New Orleans ICE Field Office Director and is responsible for ICE policies and operations in the New Orleans District, which stretches across Alabama, Arkansas, Louisiana, Mississippi, and Tennessee. Petitioner is currently detained by ICE within this area of responsibility. Along with the other named Defendants, Defendant Harper is responsible for determinations concerning Petitioner and subsequent ICE decisions to detain and pursue removal of Petitioner. She is named in her official capacity.

10. Defendant Todd Lyons is the Acting Director of ICE and has authority over the operations of ICE. In that capacity and through his agents, Defendant Lyons has broad authority over the operation and enforcement of the immigration laws.

11. Respondent Unknown is the warden of South Louisiana Correctional Center, where Petitioner is currently detained under the authority of ICE, alternatively may be considered to be Petitioner's immediate custodian.

FACTUAL ALLEGATIONS

12. Petitioner, Mitalben Bhavinkumar Patel, is a native and citizen of India. Petitioner is married to Bhavinkumar Patel, who is a citizen of Panama.
13. Petitioner was detained by ICE on April 17, 2025, in Knoxville, Tennessee, based on an anonymous tip related to purported unauthorized employment.
14. Petitioner was transferred to South Louisiana Correctional Center in Louisiana and has remained detained for more than 30 days.
15. No Notice to Appear (NTA) has been filed with the immigration court or served on her. Thus, removal proceedings have not formally commenced.
16. Petitioner was offered Voluntary Departure/voluntary return, which she accepted in good faith and signed the necessary documents. ICE has yet to effectuate that departure or release her from custody.
17. Petitioner's husband Bhavinkumar Patel was also arrested and detained with the Petitioner for the same allegations, and he has also signed voluntary return. ICE has already released her husband Bhavinkumar and sent him to his country Panama on June 1, 2025. But they have nether released nor processed her travel document yet.
18. Petitioner has no prior immigration violations, no criminal history, and no pending criminal charges.
19. Petitioner's husband is a majority investor in Mahadev

Investment, LLC, doing business as La Concha Suites, a hotel which was approved for conversion to Spark by Hilton and holds a pending E-2 visa petition. In order to be eligible for E-2 visa status, a person must be from a treaty country and must have invested or actively be in the process of investing in the United States. Petitioner's husband has invested \$225,000 in Mahadev Investment, LLC.

20. Petitioner's son is in lawful F-1 student status at Embry-Riddle University in Florida.
21. Petitioner poses no risk to public safety and is not a flight risk, and her continued detention is not justified under the law.

RIGHT TO JUDICIAL INTERVENTION

22. The basis for this Court's habeas jurisdiction to review the Petitioner's claim is contained in 28 U.S.C. § 2241, the general grant of habeas jurisdiction bestowed on the federal district courts, which neither the Antiterrorism and Effective Death Penalty Act of 1996 (the "AEDPA"), Magana-Pizano v. INS, 200 F.3d 603, 607 (9th Cir. 1999) (holding that IIRIRA § 309(c)(4)(G) repealed the Court's jurisdiction over petitions by criminal aliens, but did not remove jurisdiction for Writs of Habeas Corpus); see Mojica v. Reno, et al., 970 F. Supp. 130, 1997 WL 400734 (E.D.N.Y. July 11, 1997); Yesil v. Reno, 958 F. Supp. 828 (S.D.N.Y. 1997), nor the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104-208, 110 Stat. 3009 (Sept. 30, 1996), eliminated nor amended. See St. Cyr v. INS, 533 U.S. 289 (2001); Calcano-Martinez v. INS, 522 U.S. 348 (2001) (holding that the Writ of Habeas Corpus was not repealed by IIRIRA or the AEDPA).
23. The Petitioner is also entitled to have her detention under color of law reviewed under the common law and as a matter of constitutional right. The Writ of Habeas Corpus is guaranteed by the Constitution and cannot be suspended except where "in Cases of Rebellion or Invasion the Public Safety may require it." U.S. Constitution, Art. I, § 9, Cl. 2 (Suspension Clause).
24. In the present action, the Petitioner asserts that her detention by Respondents is in violation of the Constitution and the Administrative Procedures Act ("APA"), 5 U.S.C. § 702.

LEGAL FRAMEWORK FOR RELIEF SOUGHT

25. This Petition for Writ of Habeas Corpus is brought

pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant relief to individuals held in custody in violation of the Constitution, laws, or treaties of the United States. Petitioner is currently detained in immigration custody without a charging document served or filed, and without proceedings commenced, in violation of statutory and constitutional protections.

26. The Supreme Court has recognized that deportation touches on important liberty issues, and that aliens, especially long-time permanent residents, must be accorded due process. Rosenburg v. Flueti, 374 U.S. 449, 458 (1962). As the length of lawful residence increases, so does an alien's liberty interest in remaining in the United States. Landon v. Plasencia, 459 U.S. 21, 32-33 (1982).
27. The Immigration and Nationality Act (INA) provides specific statutory provisions governing immigration detention. Under 8 U.S.C. §1226, detention is permitted pending a decision on whether the individual is to be removed from the United States - but only after removal proceedings have commenced through the issuance and service of a Notice to Appear (NTA). No such NTA has been served or filed in Petitioner's case, thus no jurisdiction has vested in the immigration court, and detention under §1226 is unauthorized.
28. Because no NTA has been served or filed, Petitioner's detention is outside the statutory scope of both pre-removal and post-removal detention authority under §§1226. The government is detaining her without jurisdiction, process, or lawful authority.
29. Furthermore, Petitioner accepted Voluntary Departure/Voluntary returns weeks ago, which ICE has failed to effectuate. Prolonged detention after an individual has agreed to depart is inconsistent with the limited purposes of civil detention under the INA. Petitioner's continued detention violates her procedural and substantive due process rights under the Fifth Amendment, as it serves no legitimate government interest, lacks procedural safeguards, and subjects her to open-ended confinement without justification, charge, or recourse.

CLAIMS FOR RELIEF

COUNT ONE

STAUTORY VIOLATIONS

30. Petitioner realleges and incorporates by reference paragraph 1 through 28 above.
31. Under the INA, detention authority is triggered by the

C.F.R. § 1003.14(a) (“Jurisdiction vests, and proceedings commence, when a charging document is filed with the Immigration Court.”). Until the NTA is issued and served, removal proceedings have not lawfully commenced, and there is no basis for continued detention under 8 U.S.C. § 1226 or § 1231.

32. ICE has not provided a valid legal basis for Petitioner’s continued detention. Petitioner’s bond redetermination has been denied by Basile Immigration Court. As recognized by the Basile Immigration Judge, jurisdiction cannot be exercised over a bond redetermination hearing in the absence of a served NTA.

COUNT TWO

SUBSTANTIVE DUE PROCESS VIOLATION

33. Petitioner realleges and incorporates by reference paragraphs 1 through 28 above.

34. Petitioner’s continued detention violates his rights to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint.

35. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner’s liberty be narrowly tailored to serve a compelling government interest. While Respondents might have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petition, since it is not significantly likely that he will be removed in the reasonably foreseeable future. In Zadvydas v. Davis, 533 U.S. 678 (2001), court recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien’s removal.

36. Petitioner’s continued detention violates her rights under the Due Process Clause of the Fifth Amendment to the United States Constitution, which protects noncitizens, including those subjects to civil immigration detention, from arbitrary and indefinite deprivations of liberty.

37. Freedom from physical detention is a core liberty interest protected by the Due Process Clause. Civil detention, while permissible in limited immigration contexts, must be reasonable in duration and directly tied to a legitimate and compelling government interest.

38. Once removal is not reasonably foreseeable, continued detention becomes arbitrary and capricious, and is therefore unconstitutional. The Court interpreted 8 U.S.C. § 1231(a)(6) to limit post-removal-order detention to a presumptively reasonable period of six months. Beyond that, the government must demonstrate that removal is significantly likely to occur in

the reasonably foreseeable future.

39. Although Petitioner has²¹ signed a Voluntary Departure/Voluntary return, ICE has taken no action to facilitate her departure. Nor has ICE served or filed a Notice to Appear (NTA) to initiate removal proceedings. As a result, Petitioner is detained with no removal order, no pending proceedings, and no set timeline for removal. Alongwith Petitioner, her husband Bhavinkumar Patel has also signed the voluntary departure. ICE has already released her husband Bhavinkumar and sent him to his country Panama on June 1, 2025. But they have nether released nor processed her travel document yet.

40. Petitioner's case is even more troubling because no removal proceedings are pending, no charging document has been filed, and she has been effectively left in legal limbo, despite ICE's acceptance of voluntary departure. The government cannot claim a compelling interest in detention for removal purposes when it is failing to initiate removal proceedings or take steps to execute voluntary departure.

41. Further, Petitioner has no criminal history, has substantial business and family ties to the United States, and poses no risk to public safety or flight. As such, continued detention is not narrowly tailored to serve any compelling governmental interest and is constitutionally impermissible.

42. Therefore, Petitioner's continued detention violates the substantive due process protections of the Fifth Amendment, and this Court should grant the writ and order her immediate release, or such other relief as may be just and proper.

COUNT THREE

PROCEDURAL DUE PROCESS VIOLATION

43. Petitioner realleges and incorporates by reference paragraphs 1 through 28 above.

44. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that she should not be detained. Petitioner has a strong liberty interest in avoiding prolonged and indefinite immigration detention without meaningful review. Yet, since being taken into custody on April 17, 2025, she has been deprived of a timely and meaningful opportunity to challenge his detention:

- No Notice to Appear (NTA) has been filed or served to initiate removal proceedings.
- Custody redetermination hearing has been denied due to the lack of jurisdiction in immigration court.

45. Although Petitioner initially sought a bond hearing before

denied the bond hearing and properly noted that, in the absence of an NTA, the court lacked jurisdiction (see 8 C.F.R. § 1003.14(a)). Petitioner's bond is denied only because it was clear that the court could not proceed absent a filed NTA - not due to waiver or lack of merit.

46. ICE's failure to provide any administrative review mechanism, coupled with their inaction in processing the Voluntary Departure/Voluntary return already signed by Petitioner, violates the most basic principles of procedural due process. There is no mechanism for Petitioner to obtain a custody determination, no timeline for action, and no ability to appeal the continued detention, even as it becomes unreasonably prolonged. The failure to provide neutral, individualized review of prolonged detention raises serious constitutional concerns. The absence of any meaningful process by which Petitioner can challenge her confinement violates the procedural due process protections of the Fifth Amendment.

PRAYER FOR RELIEF

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

- 1) Assume Jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing Respondents to immediately release Petitioner from custody;
- 3) Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
- 4) Alternatively, order ICE to promptly effectuate the accepted Voluntary Departure/Voluntary return to Panama, her country of residence where she resides with her husband Bhavinkumar Patel;
- 5) Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury that the foregoing is true and correct.

I, _____ hereby certify that a copy of the foregoing was mailed First class postage prepaid to the office of the Attorney General at the below mentioned address:

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Ave. NW
Washington, D.C. 20530-0001

Kristi Noem
Office of the General Counsel
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave, SE Washington, DC 20528-0485

Melissa B. Harper
New Orleans ICE Field Office Director
1250 Poydras St, Ste. 325, New Orleans, LA 70113

Todd Lyons
Acting Director of U.S. Immigration and Customs Enforcement
c/o Office of the Principal Legal Advisor (OPLA)
500 12th Street SW, Mail Stop 5900 Washington, D.C. 20536-5900

Unknown
Warden, South Louisiana Correctional Center
3843 E Stagg Ave, Basile, LA 70515

Respectfully submitted,
