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Far Rockaway, NY 11691
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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

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Manishkumar PATEL,

Petitioner/Plaintiff,

CIVIL ACTION No.

- against-

Pamela Bondi, Attorney General of the United States of America; Craig A. Lowe, Warden of the Pike County Correctional Facility; Thomas Decker, Field Office Director, Philadelphia Field Office, Immigration and Customs Enforcement; Kristi Noem, Secretary, United States Department of Homeland Security; United States Department of Homeland Security, Immigration and Customs Enforcement;

Respondents/Defendants
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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND PETITION FOR WRIT OF HABEAS CORPUS

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COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
AND PETITION FOR WRIT OF HABEAS CORPUS

PETITIONER/PLAINTIFF Manishkumar Patel (henceforth "Petitioner" or "Mr. Patel"), by and through his undersigned counsel, hereby petitions this Honorable Court to issue a writ of habeas corpus to release him on bond from his continued detention in the custody of the United States Department of Homeland Security Immigration and Customs Enforcement ("DHS-ICE"). This action is brought 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 for declaratory and injunctive relief, to protect the petitioner's rights under the Due Process Clause of the Fifth Amendment of the Constitution and applicable federal law, to issue a writ of habeas corpus, and to set bond or other conditions for release of petitioner from his continuing detention in federal custody. In support of this petition, petitioner states by and through counsel as follows:

JURISDICTION AND VENUE

1. This action arises under the Constitution, the Immigration & Nationality Act of 1990, as amended ("INA"), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq. This Court has habeas jurisdiction pursuant to 28 U.S.C. § 2241, Art. I, § 9, Cl. 2 of the United States Constitution (the "Suspension Clause"); and the common law. This Court may also exercise jurisdiction pursuant to 28 U.S.C. § 1331 and may grant relief pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
2. On May 11, 2005, Congress passed the REAL ID Act of 2005, Pub. L. No. 109-13, 119 Stat. 231. The REAL ID Act divested federal district courts of jurisdiction to review final orders of deportation, exclusion and/or removal. However, federal district courts still retain jurisdiction through habeas corpus over the detention of aliens.
3. Manishkumar Patel is challenging his continued detention by DHS-ICE and is requesting that the federal district court grant this request for release from custody on bond, or on any other condition of release, such as electronic monitoring in lieu of incarceration.
4. Venue lies in the United States District Court for the Middle District of Pennsylvania, the judicial district of confinement, as the petitioner is physically being held in custody at the Pike County Correctional Facility located in Hawley, Pennsylvania. This is in accordance with the decision of the United States Supreme Court in *Rumsfeld v. Padilla*, 124 S.Ct. 2711, 2725 (2004) ("Whenever a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States, he should name his warden as respondent and file the petition in the district of confinement").

PARTIES


1. Petitioner Maniskumar Patel is a native and citizen of India who has been held in continuing detention at the Pike County Correctional Facility by DHS-ICE.
2. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States of America. The Attorney General has powers under 8 U.S.C. § 11 03 (g) to take necessary actions related to immigration and naturalization: including, but not restricted to, authority over the detention and removal of aliens.
3. Respondent Craig A. Lowe is sued in his official capacity as the Warden of the Pike County Correctional Facility of Hawley, Pennsylvania. The warden has chief executive authority over the administration of the Pike County Correctional Facility. In this capacity, he has direct responsibility over the confinement of Maniskumar Patel.
4. Respondent Thomas Decker is sued in his official capacity as the DHS-ICE Field Office Director in Philadelphia, Pennsylvania. In this capacity, he has responsibility for determining at which detention facility the petitioner will be held, deciding whether the petitioner can be paroled from custody on parole or on any other condition of supervised release, administering the enforcement and administration of the immigration laws, and is empowered to carry out an order of removal against the petitioner.
5. Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, she has responsibility for administering the enforcement and administration of the immigration laws of the United States.
6. Respondent Department of Homeland Security Immigration and Customs Enforcement ("DHS-ICE") is the agency responsible for enforcing the Immigration and Nationality Act of 1990, as amended, ("INA") and all other current statutes, laws and regulations which affect the rights and benefits of noncitizens.

STATEMENT OF FACTS

7. Manishkumar Patel, a native and a citizen of India, entered the United States without inspection in May of 1995. He has been living here more than thirty years, obeying the law and paying taxes.
8. Manishkumar Patel seeks to defend himself against removal through an application for asylum under 8 U.S.C. § 1158(a), or withholding of removal under 8 U.S.C.

§1231(b)(3)(A), or protection under Article 3 of the United Nations Convention Against Torture ("Torture Convention"). His continued detention at the Pike County Correctional Facility and the threat of an impending move to a remote detention facility located far away from family members and attorneys, plus the threat of deportation to India, makes it far more difficult to pursue his case.

EXHAUSTION OF REMEDIES

9. Petitioner Manishkumar Patel has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.
10. Manishkumar Patel, A  was ordered removed by the Immigration Judge on January 4, 2010. The Board of Immigration Appeals dismissed his appeal on November 23, 2010. As Mr. Patel has an administratively final order of removal, the immigration judge has no authority to grant release from custody on payment of bond.
11. Manishkumar Patel is under the discretionary detention provisions of 8 U.S.C. § 1231 (a)(6) rather than the mandatory detention provisions of 8 U.S.C. § 1226(c)(1). See *Mapp v. Reno*, 241 F.3d 221, 228 (2nd Cir. 2001). The federal district court therefore retains authority to grant his release on bond or on any other conditions of supervised release.
12. The correct forum in which to bring this petition for a writ of habeas corpus, challenging his continued detention in federal custody, is in the federal district court.
13. The facts upon which this petition is based are derived from petitioner's personal knowledge and from the records and decisions of the Department of Homeland Security and the Immigration Court.

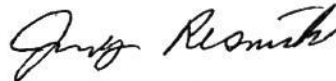
PRAYER FOR RELIEF

WHEREFORE, petitioner prays that this Honorable Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus, directed to the respondents, requiring them to show cause why the petitioner should not be discharged from the restraint of liberty now imposed on him by the respondents;

- c. Find that this court has inherent authority to grant bail to habeas petitioners challenging their detention by the United States Department of Homeland Security Immigration and Customs Enforcement;
- d. Grant release of petitioner from custody upon payment of reasonable bond to be determined by this court;
- e. Award to petitioner reasonable costs and attorney's fees under the Equal Access to Justice Act, 28 U.S.C. §2412; and,
- f. Grant any other and further relief that this Honorable Court deems just and proper.

Respectfully submitted,
MANISHKUMAR PATEL
By his attorney:



Dated: 06/10/2025

Signed:

s/Judy Resnick
JUDY S. RESNICK, ESQ.
Attorney for Petitioner
2906 Bailey Court
Far Rockaway, NY 11691
Tel. (917) 971-1207; Fax (201) 498-0701
E-mail: resnickjudys@gmail.com

VERIFICATION OF COMPLAINT

I, Judy S. Resnick, Esq., state under penalty of perjury that I am the attorney for the petitioner Manishkumar Patel in the foregoing petition, and declare the facts alleged here to be true, except those made on information and belief, which I believe to be true, and further state that the sources of my information and belief are documents and information provided to me by the petitioner and his associates and family members.

Far Rockaway, NY
Dated: 06/11/2025

Signed:



s/Judy Resnick
JUDY S. RESNICK, ESQ.
Attorney for Petitioner
2906 Bailey Court
Far Rockaway, NY 11691
Tel. (917) 971-1207; Fax (201) 498-0701
E-mail: resnickjudys@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via Certified Mail / Return Receipt to:

Hon. Pamela Bondi, Attorney General of the United States, U.S. Dept. of Justice, Civil Division,
950 Pennsylvania Avenue, Washington, DC 20530;

Warden Craig A. Lowe, Pike County Correctional Facility, 175 Pike County Blvd, Hawley, PA
18428;

Hon. Thomas Decker, Philadelphia Field Office Director, DHS-ICE, 1600 Callowhill Street, 5th
Floor, Philadelphia, PA 19130;

Hon. Kristi Noem, Secretary, U.S. Dept. of Homeland Security, 245 Murray Lane, Washington,
DC 20528;

U.S. Dept of Homeland Security, Immigration and Customs Enforcement, 245 Murray Lane,
Washington, DC 20528;

Office of the US Attorney, M.D. PA, Suite 311, 235 N. Washington Ave, Scranton PA 18503.

Office of the General Counsel, USDHS, 245 Murray Lane SW, Mail Stop 0485, Washington,
DC 20528-0485.

upon the date given below.

Dated: 06/11/2025

Signed:



s/Judy Resnick
JUDY S. RESNICK, ESQ.
Attorney for Petitioner
2906 Bailey Court
Far Rockaway, NY 11691
Tel. (917) 971-1207; Fax (201) 498-0701
E-mail: resnickjudys@gmail.com

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Respondents/Defendants

TEMPORARY RESTRAINING ORDER

This matter is before the Court for a Temporary Restraining Order brought by petitioner Manishkumar Patel, in connection with a petition for a Writ of Habeas Corpus accompanying opinion, it is on this _____ day of _____, 2025:

ORDERED, that a Temporary Restraining Order be issued forthwith, barring and enjoining the respondents/defendants, their agents and subordinates from the following actions: enforcing removal of the petitioner from the United States of America; moving him from the jurisdiction of the United States District Court for the Middle District of Pennsylvania; until a full and complete hearing on the merits of his petition, and any extensions and continuances thereof, and any appeal therefrom has been entertained and exhausted.

Honorable United States District Judge

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

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Respondents/Defendants
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ORDER TO SHOW CAUSE

Good cause appearing therefore, and upon reading the Verified Petition for Writ of Habeas Corpus, and the accompanying attachments brought before this Court by petitioner's attorney, Judy S. Resnick, Esq., IT IS HEREBY

ORDERED that respondents/defendants appear before the undersigned Judge of the United States District Court for the Middle District of Pennsylvania at the William F. Nealon Federal Building and Courthouse, 235 N. Washington Avenue, Scranton, Pennsylvania 18503, on the _____ day of _____, 2025 at _____ AM/PM, to Show Cause why a Writ of Habeas Corpus should not issue herein; and it is further

ORDERED that pending further review of this case, any transfer of petitioner Manishkumar Patel is hereby stayed; and it is further

ORDERED that service of this Order to Show Cause and supporting papers upon the respondents or their authorized representatives, within three days of this date, be deemed good and sufficient service; and it is further

ORDERED that any responsive pleadings to the petition, together with any supporting affidavits, defenses or motions, if any, shall be in writing, filed with this Court, and served by hand or overnight mail upon petitioner's attorney, and that any reply filed by petitioner shall be

filed with this Court and served by hand or overnight mail upon the Office of the United States Attorney for the Middle District of Pennsylvania.

DONE AND ORDERED this _____ day of _____, 2025.

Honorable United States District Judge

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

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This matter is before the Honorable Court on petition for a Writ of Habeas Corpus brought by Manishkumar Patel. Upon consideration of the submissions of the parties, and upon the oral argument on _____ by Judy S. Resnick, Esq. for the petitioner, and by _____ for the respondents, and for the reasons stated in the accompanying opinion, it is on this _____ day of _____, 2025:

ORDERED, that a Writ of Habeas Corpus be issued forthwith; and it is further

ORDERED, that the respondents/defendants, upon payment of bond or any other reasonable condition of release, release the petitioner immediately from DHS-ICE custody into DHS-ICE supervision; and it is further

ORDERED, that the petitioner within 30 days of this order submit to this Court an application for fees and other expenses, and that respondents pay petitioner reasonable costs and attorney fees pursuant to the Equal Access to Justice Act, 28 U.S.C. §2412.

Honorable United States District Judge