

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION

Vraj Dilipbhai PATEL (A )

Petitioner,  
v.

Case No. 3:25-cv-373-RGJ

JEFF TINDALL, Jailer, Oldham County  
Detention Center;  
SAMUEL OLSON, Field Office Director,  
Chicago Field Office, Immigration and  
Customs Enforcement;  
KRISTI NOEM, Secretary of the U.S. Department  
of Homeland Security; and  
PAMELA BONDI, Attorney General of the  
United States,  
Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS**

The Petitioner, Vraj Dilipbhai PATEL, by and through his own and proper person, and through his attorney, NICOLE PROVAX, of the LAW OFFICES OF KRIEZELMAN BURTON & ASSOCIATES, LLC, hereby petitions this Honorable Court to issue a Writ of Habeas Corpus to review his unlawful detention and impending removal by the U.S. Immigration and Customs Enforcement, and states as follows:

**Introduction**

1. Petitioner Vraj Dilipbhai PATEL is presently being detained by Immigration and Customs Enforcement ("ICE") at the Oldham County Detention Center in La Grange, Kentucky.
2. Petitioner is a citizen and native of India. He entered the United States on or around March 2024 without being admitted, inspected, or paroled. Upon his entry into the United States, Petitioner was detained by Immigration Officials and subsequently released on his own recognizance.

3. The Department of Homeland Security initiated removal proceedings against Petitioner by issuing a Notice to Appear which was filed with the Immigration Court in **Memphis, Tennessee**. Petitioner sought relief from removal and filed Form I-589, Application for Asylum and for Withholding of Removal before the Immigration Court
4. U. S. Immigration and Customs Enforcement (“ICE”) ordered Petitioner to appear at a “check-in” at a local field office. Petitioner was detained at his first and only “check-in.”
5. After Petitioner was detained, the U.S. Department of Homeland Security (“DHS”) subsequently filed a motion to dismiss Petitioner’s removal proceedings and placed Petitioner in expedited removal proceedings pursuant to 8 U.S.C. section 1225(b)(1).
6. On June 18, 2025, an Immigration Judge granted DHS’s motion to dismiss. The Immigration Judge then denied Petitioner bond, finding that Petitioner was a flight risk as he had no relief before the Immigration Court.
7. Petitioner has been detained since that time, subject to immediate removal.

#### **Jurisdiction**

8. The action arises under the Constitution of the United States, the Immigration and Nationality Act of 1952, as amended (“INA”), 8 U.S.C. section 1101 *et seq.*
9. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. section 2241, (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the “Suspension Clause”), as Petitioner Vraj Dilipbhai PATEL is presently subject to immediate detention and custody under the of authority of the United States government, and said custody is in violation of the Constitution, law or treaties of the United States.

10. This action is brought to compel the Respondents, officers of the United States, to accord Petitioner the due process of law to which he is entitled under the, Fourth, Fifth and Fourteenth Amendments of the United States Constitution.
11. 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.
12. No petition for habeas corpus has previously been filed in any court to review Petitioner's case.
13. Nothing in federal immigration law strips this Court of its jurisdiction over Petitioner's claims. *See* 8 U.S.C. § 1252 (specifying provisions governing judicial review of orders of removal). Here, Petitioner challenges his current detention and the due process stripping tactics Respondents employed to detain Petitioner, which violates the First, Fourth, Fifth, and Fourteenth Amendments to the Constitution.

#### Venue

14. Venue lies in this Court pursuant to 28 U.S.C. §1391(e). Petitioner Vraj Dilipbhai PATEL is presently detained at Oldham County Detention Center in La Grange, Kentucky, by order of the ICE Chicago Field Office. Divisional venue is proper in the Louisville Division. *See* LR 3.1(b).

#### Requirements of 28 U.S.C. § 2243

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

allowed.” *Id.* (emphasis added).

16. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

### Parties

17. Petitioner, Vraj Dilipbhai PATEL, is a native and citizen of India. He entered the United States on or around March 2024 without being admitted, inspected, or paroled. Upon his entry into the United States, Petitioner was stopped by Immigration Officials and released on his own recognizance. He is presently detained at Oldham County Detention Center.
18. Defendant, JEFF TINDALL, is being sued in his official capacity only, as the Jailer, or warden, of the Oldham County Detention Center, where Petitioner Vraj Dilipbhai PATEL is presently being detained. He is, therefore, Vraj Dilipbhai PATEL’s immediate custodian.
19. Defendant, SAMUEL OLSON, is being sued in his official capacity only, as the Deputy Field Office Director of the Chicago Field Office of Immigration and Customs Enforcement Enforcement and Removal Operations (“ICE ERO”). As such, he is charged with the detention and removal of aliens which fall under the jurisdiction of the Chicago Field Office.
20. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention. Respondent Noem is a legal custodian of Petitioner.

21. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

**Custody**

22. Respondents have detained Petitioner Vraj Dilipbhai PATEL since June 9, 2025, and Petitioner faces expedited removal. He has remained at Oldham County Detention Center since that time.

**Factual and Procedural Background**

23. Petitioner, Vraj Dilipbhai PATEL is a 20-year-old citizen of India. He fled his home country after members of the Bharatiya Janata Party (BJP), the majority political party in India, physically attacked and threatened his life for participating in activities for the Indian National Congress political party.

24. Petitioner last entered the United States on or around March 2024 without being admitted, inspected, or paroled. Upon his entry into the United States, Petitioner was detained by Immigration Officials, released on his own recognizance, and issued a Notice to Appear, placing him in immigration removal proceedings pursuant to 8 U.S.C. section 1229a.

25. Petitioner retained legal counsel and timely filed Form I-589, Application for Asylum and for Withholding of Removal within the one-year filing deadline on October 10, 2024.

26. In accordance with his initial release, Petitioner presented himself for his first check-in with ICE on June 9, 2025.

27. Respondents detained Petitioner on June 9, 2025, citing no legal justification for his detention.
28. Subsequent to his detention, DHS filed a motion to dismiss Petitioner's removal proceedings.
29. On June 17, 2025, undersigned counsel filed a brief in opposition to DHS's motion to dismiss and requested a bond redetermination hearing.
30. At a hearing on June 18, 2025, DHS argued that they were seeking to dismissing proceedings in order to place Petitioner in expedited removal proceedings under 8 U.S.C. section 1225(b)(1). The Immigration Judge granted DHS's motion to dismiss.
31. The Judge also denied Petitioner's bond request, claiming that Petitioner is a flight risk as he no longer had relief pending before the immigration court.
32. Petitioner's asylum claim was never heard before the Immigration Judge despite being placed in removal proceedings pursuant to 8 U.S.C. section 1229a.
33. The detention of Petitioner by Respondents is a violation of law and the Constitution of the United States.

### **Claims for Relief**

#### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Due Process**

34. The allegations in the above paragraphs are realleged and incorporated herein.
35. Petitioner's detention and the due process stripping tactics Respondents employed to detain Petitioner violate the Due Process Clause of the Fifth Amendment. It is well-settled that the rights contained in the Due Process Clause of the Fifth Amendment extend to "all persons" present in the United States. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) ("Due Process

Clause applies to all ‘persons’ within the United States, including aliens.”); *see also Clark v. Martinez*, 543 U.S. 371 (2005).

36. Petitioner has a liberty interest in not being detained without legal justification by the Attorney General. *Zadvydas*, 533 U.S. at 696.
37. Deprivation of a fundamental liberty interest can only be justified if narrowly tailored to serve a compelling government interest. *Flores v. Reno*, 507 U.S. 292, 302 (1993).
38. The Court in *Zadvydas* found that the government interests at stake were not compelling. The Court considered two interests asserted by the government, ensuring the alien’s appearance at future proceedings, and preventing danger to the community. The first interest was held to be “weak or inconsistent” when an individual cannot be deported in the foreseeable future. *Zadvydas*, 533 U.S. at 690. The second interest, preventative detention, could only be upheld where “limited to especially dangerous individuals and subject to strong procedural protections.” *Id.* at 690-91. Neither interest is compelling here.
39. This statute is not narrowly tailored to protect any interest that the Respondents might assert. The statute only provides vague protections and those protections are in the hands of the very Respondents who are detaining Petitioner. No reasonable administrative or judicial safeguards exist to protect detained immigrants from unreasonable detention. It would violate Due Process to permit the Attorney General to exercise such unbridled power to unreasonably detain human beings.
40. There is no implication here that Petitioner is a threat to national security, a terrorist or spy, or that such extraordinary conditions exist, such that Petitioner should continue to be detained without legal justification. *Zadvydas*, 533 U.S. at 696.

41. The U.S. Supreme Court has consistently held noncitizens in removal proceedings are afforded due process rights. *Landon v. Plasencia*, 459 U.S. 21 (1982) (finding respondent was entitled to due process in her exclusion hearing); *see Yick Wo v. Hopkins*, 118 U.S. 356 (1886) (holding that the fourteenth amendment of the constitution was not confined to the protection of U.S. citizens only); *Wong Wing v. U.S.*, 163 U.S. 228 (1896) (affirming that the fifth and sixth amendments are guaranteed to all persons within the territory of the United States). The U.S. Supreme Court has also recognized the liberty interests at play during deportation proceedings and the laws in place that safeguard against unfair procedures. *Bridges v. Wixon*, 326 U.S. 135, 153 (1945).
42. Petitioner had a timely filed application for asylum before an Immigration Court. The Immigration Judge scheduled a bond hearing for June 18, 2025 at 9 a.m. CT and scheduled a Master Calendar hearing for 10 a.m. CT the same day to make a judgment on DHS's motion to dismiss Petitioner's pending asylum case. Instead of initiating the bond hearing first, the Immigration Judge held the Master Calendar hearing first and granted DHS's motion to dismiss. In turn, the Immigration Judge then held the bond hearing, which was originally scheduled first, and found that Petitioner was a "flight risk" because his removal proceedings were dismissed. The Immigration Judge's legal maneuver to create a "flight risk" conclusion was a violation of Petitioner's right to due process in his removal proceedings, especially when there was no legal basis for the Immigration Judge's finding prior to the dismissal of Petitioner's bona fide asylum claim.
43. For these reasons, Petitioner's detention and the due process stripping tactics Respondents employed to detain Petitioner violate the Due Process Clause of the Fifth Amendment.



COUNT TWO

**Violation of 8 U.S.C. § 1225(b)(1), § 1229a, and Implementing Regulations**

44. The allegations in the above paragraphs are realleged and incorporated herein.
45. Respondents detained Petitioner on June 9, 2025. The same day, DHS filed a motion to dismiss Petitioner's immigration case. To date, Respondents have not provided a legal justification for detaining Petitioner.
46. Based on Respondents' actions, Petitioner speculates that Respondents detained him to place him in expedited removal proceedings under 8 U.S.C. section 1225(b)(1) despite already being in removal proceedings under 8 U.S.C. section 1229a.
47. On June 18, 2025, the Immigration Judge presiding over Petitioner's case granted DHS's motion to dismiss Petitioner's pending asylum case in immigration court and proceedings under 8 U.S.C. section 1229a. As of June 18, 2025, Respondents have not placed Petitioner in expedited removal proceedings under 8 U.S.C. section 1225(b)(1). Thus, the reason for Petitioner's detention is both unclear and unlawful.
48. Congress carefully crafted 8 U.S.C. sections 1225(b)(1) and 1229a in order to provide Respondents with options on how to process a noncitizen whom it alleges is an inadmissible applicant for admission. However, there is no statutory authority for DHS to reverse that choice after proceedings have already begun. The U.S. Supreme Court decision in *Jennings v. Rodriguez*, supports this reading of the statute. 583 U.S. 281 (2018).
49. In *Jennings*, the Court differentiated between (b)(1) and (b)(2) noncitizens. The Court observed that "applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2). Section 1225(b)(2)...serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1). *Id.* at 287-

88. While Congress granted Respondents the authority to determine the scope of expedited removal up to the statutory maximum, it did not grant Respondents authority to apply new expedited removal designations retroactively. The Supreme Court has long recognized that “a statutory grant of legislative rulemaking authority will not, as a general matter, be understood to encompass the power to promulgate retroactive rules unless that power is conveyed by Congress in express terms.” *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204, 208 (1988). To do so would add “new legal consequences to events completed [prior to the expansion].” *See Landgraf v. USI Film Prods.*, 511 U.S. 244, 269-70 (1994).

50. Because Congress did not grant DHS the power to retroactively expand expedited removal, Petitioner’s detention, presumably under 8 U.S.C. section 1225(b)(1), violates section 1225(b)(1), section 1229a, and its implementing regulations.

WHEREFORE, Petitioner Vraj Dilipbhai PATEL, respectfully request that this Honorable Court:

- A. Accept jurisdiction over this action;
- B. Order Respondents to not remove Petitioner from the jurisdiction of the United States and not transfer Petitioner to any judicial district outside the State of Kentucky until a hearing is held on this matter;
- C. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- D. Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. section 1225(b)(1), section 1229a, and its implementing regulations;

- E. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- F. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- G. Grant any other relief this Court deems just and proper.

Dated: June 19, 2025

Respectfully Submitted,  
Vraj Dilipbhai PATEL

By: /s/ Nicole Provax  
One of his attorneys

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**Verification Pursuant to 28 U.S.C. § 2242**

I represent Petitioner, Vraj Dilipbhai PATEL, and submit this verification on his/her/their behalf.

I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 19 day of June, 2025.

/s/ Nicole Provax

NICOLE PROVAX