

Philip James Smith, OSB No. 981032
e-mail: philip@visaoregon.com
Nicole Hope Nelson, OSB No. 97534
e-mail: nicole@visaoregon.com
NELSON | SMITH, LLP
1123 SW Yamhill St.
Portland, Oregon 97205
Phone: 503-224-8600


Attorneys for Petitioner

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION**

G-S-,

Docket No.:

Petitioner,

Agency Case No.: A 

v.

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER
28 U.S.C. § 2241**

DREW BOSTOCK, Seattle Field Office Director,
Immigration and Customs Enforcement and
Removal Operations ("ICE/ERO"); TODD LYONS,
Acting Director of Immigration Customs
Enforcement ("ICE"); U.S. IMMIGRATION AND
CUSTOMS ENFORCEMENT; KRISTI
NOEM, Secretary of the Department of Homeland
Security ("DHS"); U.S. DEPARTMENT OF
HOMELAND
SECURITY;

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

Respondents.

COMES NOW Petitioner, G-S-, by and through counsel, and pursuant to 28 U.S.C. § 2241 does hereby petition the Court for a Writ of habeas corpus. In support of this petition, Petitioner alleges as follows:

Subject Matter Jurisdiction

1. The Court has habeas corpus jurisdiction pursuant to 28 U.S.C. § 2241 et seq., and Article I, § 9, Clause 2 of the United States Constitution (“Suspension Clause”). Demore v. Kim, 123 S. Ct. 1708, 1714 (2003); INS v. St. Cyr, 121 S.Ct. 2271 (2001); Magana-Pizano v. INS, 200 F.3d 603, 610 (9th Cir. 1999).

2. G-S- is in custody for purposes of habeas corpus relief because he is currently in the custody of Immigration and Customs Enforcement, acting under color of authority of the United States.

Venue

3. Venue lies in the District of Oregon, the judicial district where Petitioner is imprisoned and held in the custody of the Immigration and Customs Enforcement, acting under color of authority of the United States and at the direction of its Field Office Director, Mr. Drew Bostock.

Parties

4. Petitioner, G-S-, a native and citizen of India, entered the United States in June 2024, and he was initially detained by Customs and Border Patrol near the United States border in New York. Petitioner was released from custody and placed in removal proceedings pursuant to 8

USC § 1229a. Petitioner has applied for asylum and he has an asylum application pending with the Immigration Court in Portland, Oregon.

5. Respondent, Mr. Drew Bostock, is the Field Office Director for the Detention and Removal Office of Immigration and Customs Enforcement and he is being sued in his official capacity. In this capacity, Mr. Bostock has authority over all detention matters in Oregon, and it is his decision to detain G-S- -- in violation of the laws and Constitution of the United States -- that is the subject of this petition.

6. Respondents, Mr. Todd Lyons, Acting Director of Immigration and Customs Enforcement, and Ms. Kristi Noem, Secretary, Department of Homeland Security, are both responsible for the implementation and enforcement of the immigration laws and it is their delegation of authority to administer the immigration laws to Immigration and Customs Enforcement (ICE) that permits ICE officials to act under color of authority of the United States.

Facts

7. On December 4, 2024, Petitioner filed an I-589 application for asylum with the Immigration Court in Portland, Oregon.

8. On June 3, 2025, Petitioner filed written pleadings with the Immigration Court in Portland, Oregon, acknowledging that he is present in the United States without having been admitted or paroled, and requesting a hearing on his application for asylum.

3 PETITION FOR WRIT OF HABEAS CORPUS

9. On June 4, 2025, the Immigration Judge sustained the charge of inadmissibility against Petitioner and placed his case in the queue to be set for an asylum hearing.

10. On June 24, 2025, Petitioner voluntarily went to the Immigration and Customs Enforcement office (ICE) in Eugene, Oregon, to check in as instructed by ICE. At that time, Petitioner was detained without explanation. His current location is unknown.

Claims

11. Petitioner is not subject to detention as he was released on his own recognizance, he has not done anything to violate the terms of his release, and he is not a flight risk or danger to the community.

Exhaustion

12. Neither the Immigration and Nationality Act nor 28 U.S.C. § 2241 “specifically require[s] petitioners to exhaust direct appeals before filing petitions for habeas corpus.” Castro-Cortez v. INS, 239 F.3d 1037, 1047 (9th Cir. 2001). As a prudential matter, however, habeas petitioners must exhaust available judicial remedies before seeking relief under § 2241. Id.; Laing v. Ashcroft, 370 F.3d 994, 997 (9th Cir. 2004).

13. No judicial remedy is available for Petitioner to challenge his unlawful detention. Petitioner has not been informed of the authority under which he is being detained.

Prayer for Relief

WHEREFORE, premises considered, Petitioner respectfully prays that this Court:

- (a) Assume jurisdiction over this matter;
- (b) Order Respondents to appear before this Court and show cause, if any there is, why Petitioner is being detained in violation of law;
- (c) Enjoin Respondents from depriving Petitioner of his liberty by incarcerating him during the pendency of this litigation given the serious legal questions raised in this Petition;
- (d) Issue a Writ of habeas corpus requiring Respondents to release Petitioner immediately on reasonable conditions;
- (e) Grant such further relief as the Court deems just and proper.

Respectfully submitted this 24th day of June 2025.

s/Philip Smith

Philip Smith, OSB No. 981032

NELSON | SMITH, LLP
1123 SW Yamhill Street
Portland, Oregon 97205
Phone: 503-224-8600
philip@visaoregon.com

DECLARATION OF PHILIP SMITH

I, Philip Smith, do solemnly declare as follows:

1. I am an attorney duly licensed to practice in the State of Oregon and I am admitted to practice before the United States District Court for the District of Oregon.
2. I am the attorney for Petitioner in this cause.
3. I have prepared the foregoing petition for writ of habeas corpus and all facts and allegations contained therein are true and accurate to the best of my knowledge and belief.
4. I declare under penalty of perjury that the foregoing declaration is true and accurate to the best of my knowledge and belief.

Signed this 24th day of June 2025 at Portland, Oregon.

s/Philip Smith
Philip Smith for
G-S-