

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

HARNISH PATEL,

Petitioner,

-vs.-

PAMELA BONDI, Attorney General of the
United States; and

KRISTI NOEM, Secretary of Homeland
Security; and

TODD LYONS, Acting Director of U.S.
Immigration and Customs Enforcement; and

JOHN TSOUKARIS, Field Office Director
of Immigration and Customs Enforcement
and Removal Operations Newark Field
Office; and

ERIC ROKOSKY, Warden of the Elizabeth
Detention Center,

Respondents.

Case No. _____

INTRODUCTION

1. Harnish Patel (“Mr. Patel”), Petitioner, by and through his undersigned counsel, hereby files this petition for a writ of habeas corpus to enjoin respondents from detaining him unlawfully.

2. On June 20, 2025, U.S. Immigration and Customs Enforcement (ICE) arrested Mr. Patel—the husband of a U.S. citizen and father of two small children who are also U.S. citizens—and detained him at the Elizabeth Contract Detention Facility, where he has been held illegally ever since.

3. More than ten years ago, Mr. Patel had been detained and ordered removed to his native country of India, but he was subsequently released on supervision when ICE was unable to obtain the necessary travel paperwork from India for his removal within the statutory 90-day period. ICE determined then that Mr. Patel was not a flight risk or danger to the community, and in the ten years that followed, he demonstrated just that and fully complied with the terms of his supervision. Nevertheless, for reasons unknown to Mr. Patel, ICE arrested and detained him again this past summer, with no changed circumstances and in violation of law.

4. Because Mr. Patel's detention is illegal, he files this Petition seeking his release.

JURISDICTION AND VENUE

5. This action arises under the Immigration and Nationality Act (INA), 8 U.S.C. §1101, *et seq.*

6. This Court has jurisdiction over the present action based on 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1346(b)

(federal Respondent), and 28 U.S.C. § 2201-2 (authority to issue declaratory judgment when jurisdiction already exists).

7. Venue is properly with this Court pursuant to 28 U.S.C. § 1391(e) because this is a civil action in which Respondents are employees or officers of the United States, acting in their official capacity, and there is no real property involved in this action.

PARTIES

8. Petitioner Harnish Patel was born in India and entered the United States at the age of 13 without inspection. He is married to Dr. Roshni Patel, a U.S. citizen. Together, they have two children, ages 1 and 3, who are both U.S. citizens. Mr. Patel has been detained at the Elizabeth Detention Facility for more than 100 days as of the filing of this Petition.

9. Respondent Pam Bondi is the Attorney General of the United States and represents the United States in legal matters generally and gives advice and opinions to the President and to the heads of the executive departments of the Government when so requested. Respondent Bondi is sued in her official capacity.

10. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through her agents, Respondent Noem has broad authority over the operation and enforcement of immigration laws. Respondent Noem is sued in her official capacity.

11. Respondent Todd Lyons is the Acting Director of ICE and has authority over the operations of ICE. In that capacity and through his agents, Respondent Lyons has broad authority over the operation and enforcement of the immigration laws. ICE is responsible for Mr. Patel's detention. Respondent Lyons is sued in his official capacity.

12. Respondent John Tsoukaris is the Newark Field Office's Director of Immigration and Customs Enforcement and Removal Operations and has authority over the operations of ICE in the State of New Jersey. In that capacity and through his agents, Respondent Tsoukaris has authority over the detention of Mr. Patel. Respondent Tsoukaris is sued in his official capacity.

13. Respondent Eric Rokosky is the Warden of the Elizabeth Detention Center and thus has authority over the facility where Mr. Patel is currently detained. Respondent Rokosky is sued in his official capacity.

FACTS

Background

14. Mr. Patel was born in India in 1983. As a child, in or around 1996, he entered the United States without inspection. In 2014, ICE detained him at the Stewart Detention Center in Lumpkin, Georgia. On February 28, 2015, Immigration Judge Barry S. Chait ordered Mr. Patel's removal to India, and Mr. Patel waived his right to appeal, rendering his removal order administratively final

(the “Final Removal Order”). *See* Ex. A.

15. ICE continued to detain Mr. Patel following entry of his Final Removal Order as Mr. Patel and the agency sought to obtain a passport or travel document necessary for his removal to India. However, the Consulate General of India informed them that “[t]he personal/passport information provided [was] not sufficient enough to establish [Mr. Patel’s] Indian Nationality.” *See* Ex. B., Letter from Consulate General of India, Houston, dated Aug. 27, 2015.

16. On December 22, 2015, almost ten months after his Final Removal Order, ICE released Mr. Patel on an Order of Supervision (“OSUP”) as a result of its inability to obtain proof of his Indian nationality as a requirement for his removal to India.

17. Mr. Patel complied with the OSUP in all respects, including going to the Indian Consulate in New York to request a travel document.

18. On August 24, 2020, Mr. Patel married U.S. Citizen Dr. Roshni Patel, a pediatric dentist. *See* Ex. C. They welcomed their first child, D [REDACTED] on [REDACTED] [REDACTED], after a high-risk pregnancy. They welcomed their second child, V [REDACTED] on [REDACTED] *See* Ex. D.

19. On June 3, 2021, Dr. Roshni filed a Form I-130, Petition for Alien Relative. U.S. Citizenship and Immigration Services (USCIS) granted the petition on October 23, 2024. *See* Ex. E.

20. Mr. Patel's mother and father, both with serious health problems, live in the United States and have a U non-immigrant status (U visa).

21. During his many years in the United States, Mr. Patel has worked hard, led a productive life, and been a contributing member of his community and the communities his business has served. He founded Infinity Hotels, a hotel development and management company, in or around 2018. Infinity Hotels currently employs 214 people in its Marriott facilities in Elizabeth, New Jersey; Trumbull, Connecticut; and Charleston, West Virginia, among others. Infinity Hotels' Charleston Marriott Town Center in Charleston, West Virginia, is the linchpin of the city's tourist economy, supporting and making possible commerce at its riverfront, the Town Center Mall, and the Charleston Coliseum and Convention Center. *See* Exs. F and G.

22. While Mr. Patel has had encounters with law enforcement, these were more than 10 years ago.

Illegal Detention

23. On June 20, 2025, Mr. Patel reported for his OSUP check-in at the immigration offices at 970 Broad St., Newark, NJ 07102 as scheduled. After his arrival, he was informed he was "going upstairs" and was subsequently detained.

24. Mr. Patel inquired as to why he was being detained. The ICE officer told him, in substance and in part, that "there are no orders of supervision anymore."

Mr. Patel asked the officer what had changed, and the officer replied, in substance and in part, that “nothing has changed.”

25. Mr. Patel was served with a Form I-229(a), Warning for Failure to Depart; an “Instruction Sheet to Detainee Regarding Requirement to Assist in Removal;” and a Form I-200, Warrant for Arrest of Alien. The officers advised Mr. Patel that he was not required to sign the forms, so he declined to do so.

26. While detained, Mr. Patel has at all times continued to cooperate with ICE to obtain travel documentation. He signed a Travel Documentation Application for India in his second week of detention and afterwards was interviewed by a Consular Officer.

27. On or about September 6, 2025, Mr. Patel met with his Deportation Officer, Rocco Kish. Officer Kish stated that ICE had been unable to obtain travel documents for Mr. Patel and would complete a Post-Order Custody Review (“POCR”). Officer Kish also told Mr. Patel that he did not believe he would obtain a travel document for Mr. Patel because ICE had been unable to obtain one before. Officer Kish advised that he would submit the POCR to ICE Headquarters.

28. Mr. Patel submitted additional documents to Officer Kish and the Newark ICE Field Office via email on September 15, 2025. *See* Ex. H (supporting documentation not included). He also sent a Request for Release to the Headquarters Post-Detention Unit of ICE on September 16, 2025. *See* Ex. I.

(supporting documentation not included). To date, there has been no reply, and Mr. Patel remains detained.

CAUSE OF ACTION

INA Section 241 [8 U.S.C. § 1231] & Regulations Thereunder [8 C.F.R. § 241.13]

29. Plaintiff incorporates the allegations in the paragraphs above as though fully set forth here.

30. Upon a final order of removal, the Attorney General must remove an alien within 90 days. 8 U.S.C. § 1231(a)(1). This 90-day removal period can only be extended “if the alien fails or refuses to make timely application in good faith for travel or other documents necessary to the alien’s departure or conspires or acts to prevent the alien’s removal subject of an order of removal,” *id.* § 1231(a)(1)(C), or if the Attorney General determines the alien “to be a risk to the community or unlikely to comply with the order of removal,” *id.* § 1231(a)(6). An alien who is not otherwise removed within the 90-day removal period “shall be subject to supervision.” *Id.* § 1231(a)(3).

31. “[O]nce removal is no longer foreseeable, continued detention is no longer authorized by statute.” *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001). Where the alien provides good reason to believe there is no significant likelihood of removal to the country to which he was ordered removed in the reasonably foreseeable future, and absent special circumstances justifying continued detention,

ICE “shall promptly make arrangements for the release of the alien subject to appropriate conditions[.]” 8 C.F.R. § 241.13(g)(1).

32. Mr. Patel’s 90-day removal period commenced on February 28, 2015, the date his Final Order of Removal became administratively final. *See* 8 U.S.C. § 1231(a)(1)(B). That period has long since passed.

33. Mr. Patel’s release in 2015 reflected the determination then that he was not a flight risk or a risk to the community, and that ICE was unable to remove him in the reasonably foreseeable future. The circumstances of that determination have not changed in the intervening 10 years. *See Tadros v. Noem*, No. 25-CV-4108 (EP), 2025 WL 1678501, at *3 (D.N.J. June 13, 2025). Mr. Patel dutifully complied with the terms of his OSUP, attempted in good faith to obtain the travel documents necessary for his removal to India, and fully cooperated with ICE both in 2015 and in 2025. The government also remains unable to obtain the necessary travel documents for his removal.

34. Mr. Patel’s continued detention is thus a violation of 8 U.S.C. § 1231 and 8 C.F.R. § 241.13 and requires his release under supervision. *See Tadros*, 2025 WL 1678501, at *3.

PRAYER FOR RELIEF

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

- (1) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Patel forthwith;
- (2) Award costs and reasonable attorneys' fees under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(b); and
- (3) Grant such further relief as the Court deems just and proper.

Dated: October 2, 2025

Respectfully Submitted,

/s/ Scott B. McBride

Scott B. McBride
Lowenstein Sandler LLP
One Lowenstein Drive,
Roseland, New Jersey 07068
Telephone: (973) 597-6136
Email: smcbride@lowenstein.com

W. John Vandenberg (*pro hac vice*
admission pending)
Hogan & Vandenberg LLC
1608 Walnut St., Ste. 1301
Philadelphia, PA 19103
Telephone: (610) 664-6271
Facsimile: (215) 701-4558
Email: john@hvlawgroup.com

CERTIFICATE OF SERVICE

I, W. John Vandenberg, hereby certify that on October 2, 2025, I filed the foregoing with the Clerk of Court using the CM/ECF system. Service has been made of all documents required to be served by Fed.R.Civ.P. 5(a) in a manner authorized by Fed.R.Civ.P. 5(b) and (c). I hereby certify that I have mailed a hard copy of the document to the above individual pursuant to Fed.R.Civ.P. 4 via first class mail to:

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

Alina Habba
c/o Civil Process Clerk
U.S. Attorney, District of New Jersey
615 Chestnut St.
Suite 1250
Philadelphia, PA 19106

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

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

John Tsoukaris
Field Office Director
Detention and Removal Operations
970 Broad St., Ste. 904
Newark, NJ 07102

Eric Rokoski
Warden
Elizabeth Detention Center
625 Evans St.
Elizabeth, NJ 07201

Respectfully submitted,

/s/ Scott M. McBride
Scott M. McBride

W. John Vandenberg (*pro hac vice* admission pending)

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

HARNISH PATEL,

Plaintiff,

-vs.-

PAMELA BONDI, Attorney General of the
United States; and

KRISTI NOEM, Secretary of Homeland
Security; and

TODD LYONS, Acting Director of U.S.
Immigration and Customs Enforcement; and

JOHN TSOUKARIS, Field Office Director
of Immigration and Customs Enforcement
and Removal Operations Newark Field
Office; and

ERIC ROKOSKY, Warden of the Elizabeth
Detention Center.

Respondents.

Case No. _____

LIST OF EXHIBITS

- Exhibit A** Final Order of Removal for Mr. Patel, dated February 28, 2015;
- Exhibit B** Letter from the Consulate General of India Houston, dated August 27, 2015, confirming they are unable to issue a travel document because they cannot establish Mr. Patel's Indian nationality. This demonstrates that Mr. Patel is unlikely to be effectively removed during his current detention;

- Exhibit C** Ms. Roshni Patel's U.S. Birth Certificate;
- Exhibit D** U.S. Birth Certificates for Mr. Patel's two U.S. citizen children;
- Exhibit E** Approved USCIS I-130 Immigrant Petition filed by Roshni Patel on behalf of her husband, Harnish Patel;
- Exhibit F** Letter from Tim Brady, President & CEO, Charleston Convention and Visitors Bureau, explaining the critical importance of the Charleston Marriott Town Center, which is owned by Mr. Patel's company, The Infinity Group, to the Convention and City, and the repercussions if it fails;
- Exhibit G** Letter from Tony Marks, Vice President of The Poca Valley, Inc., a community financial institution, setting out the serious financial repercussions if The Infinity Group fails due to Mr. Patel's inability to lead it;
- Exhibit H** Request for Release from Detention, emailed to Deportation Officer Rocco Kish on September 15, 2025;
- Exhibit I** Request for Release from Detention, emailed to Deportation Officer Rocco Kish on September 15, 2025;