

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

Sukhjinder Singh Kewal Sin Johal,

Case No.: _____

Petitioner

v.

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS**

Pamela Bondi, Attorney General; Kristi Noem, Secretary of Homeland Security; Todd M. Lyons, Acting Director of U.S. Immigration & Customs Enforcement; Marcos Charles, Acting Executive Associate Director for Enforcement and Removal Operations; Mark Siegel, Field Office Director for Enforcement and Removal Operations; U.S. Immigration & Customs Enforcement; U.S. Department of Homeland Security; Scarlet Grant, Warden of Cimarron Correctional Facility.

**EXPEDITED HANDLING
REQUESTED PURSUANT TO 28
U.S.C. § 1657**

Respondents.

INTRODUCTION

1. Respondents are detaining Petitioner, Sukhjinder Singh Kewal Sin Johal (A  ) in violation of law.
2. Johal is a native and citizen of India who is detained in immigration custody pursuant to 8 U.S.C. § 1226(a).
3. Johal filed a Motion for Custody Redetermination with the appropriate immigration court in Aurora, Colorado on October 31, 2025 to seek an immigration bond while his removal proceedings remain pending.

4. Johal filed evidence in support of his request on October 31, 2025 and November 14, 2025, demonstrating that he is neither a flight risk nor a danger to persons or property.
5. A bond hearing was set for November 17, 2025 at 9:30 AM.
6. The immigration judge, the Honorable Attila Bogdan, denied the bond on November 17, 2025. Prior to denying the bond, the immigration judge found that Johal was neither a flight risk nor a danger to persons or property. The immigration judge denied the bond solely because there were no material changes in circumstances supporting Respondent's application for bond.
7. The immigration judge's reason for denying bond is unlawful under 8 U.S.C. § 1226(a), governing regulations, and case law. The "changed circumstances" analysis only applies when an immigration judge has previously denied bond and the noncitizen then seeks bond again on the basis of changed circumstances.
8. Appealing the immigration judge's order to the Board of Immigration Appeals ("BIA") is futile because that appeal will take a minimum of four months to be decided. In the meantime, Johal will be forced to present a case for relief before the immigration judge from jail, impairing his ability to consult with counsel and gather evidence in support of his application.
9. Considering the immigration judge made findings that Johal is eligible for bond because he is not a flight risk or danger, and denied bond solely on a clear misunderstanding and misapplication of law, granting a writ of habeas corpus

ordering the immigration judge to set a bond in whatever monetary amount they deem appropriate is the appropriate remedy.

10. Johal remains detained at this time. He is housed in Cimarron Correctional Facility in Cushing, OK, a facility designed to house and punish convicted criminals. Johal's conditions of confinement are indistinguishable from those of convicted criminals.
11. To remedy his unlawful detention, Johal seeks a writ of habeas corpus. Johal requests immediate release. Alternatively, Johal requests that the Court order the immigration judge to set a reasonable monetary bond based on the evidence previously presented to the immigration court within 24 hours of the Court's order.
12. Johal requests an order compelling Respondents to release him pending the outcome of this petition.
13. In accordance with 28 U.S.C. § 1657, Johal requests that the district court issue an Order to Show Cause ("OSC") giving the government no more than 3 days to file evidence and argument in response to the OSC. Johal further requests that the magistrate judge shorten the time for making any objections to the magistrate's forthcoming Report & Recommendation from 14 days to 2 days.

JURISDICTION AND VENUE

14. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 (federal question), § 1361 (mandamus action), § 1651 (All Writs Act), and § 2241 (habeas corpus); Art. I, § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 5 U.S.C. § 702 (Administrative Procedure Act); and 28 U.S.C. § 2201 (Declaratory Judgment Act). This action further arises under the Constitution of the United States and the

Immigration and Nationality Act (“INA”), specifically, 8 U.S.C. § 1226(a) and 8 C.F.R. § 1003.19(e) (“**After an initial bond determination**, an alien’s request for a subsequent bond redetermination shall be... considered only upon a showing that the alien’s circumstances have changed materially **since the prior bond redetermination.**”).

15. Because Johal seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.
16. Federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas petitions by noncitizens challenging the lawfulness or constitutionality of their detention by DHS. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–41 (2018); *Nielsen v. Preap*, 139 S. Ct. 954, 961–63 (2019); *Sopo v. U.S. Attorney Gen.*, 825 F.3d 1199, 1209-12 (11th Cir. 2016).
17. Under 28 U.S.C. § 1657, Johal’s petition “**shall**” be expedited for good cause. (emphasis added). The good cause consists of Johal’s credible and detailed allegations of a plainly unlawful order denying bond.
18. Venue is proper in this Court pursuant to 28 USC §§ 1391(b), (e)(1)(B), and 2241(d) because Johal is detained within this District. He is currently detained at the Cimarron Correctional Facility in Cushing, Oklahoma. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district.

PARTIES

19. Petitioner Johal is a citizen of India present in the United States and in removal

proceedings pursuant to 8 U.S.C. § 1229a. Johal is detained under 8 U.S.C. § 1226(a). Johal's Alien Registration Number ("A number") is A220-018-678. Johal is currently in custody at the Immigration and Customs Enforcement ("ICE") detention center in Cushing, Oklahoma.

20. Respondent Pamela Bondi is being sued in her official capacity as the Attorney General of the United States and the head of the Department of Justice, which encompasses the BIA and the immigration judges through the Executive Office for Immigration Review. Attorney General Bondi shares responsibility for implementation and enforcement of the immigration detention statutes, along with Respondent Noem. Attorney General Bondi is a legal custodian of Johal.
21. Respondent Kristi Noem is being sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Secretary Noem is responsible for the administration of the immigration laws pursuant to § 103(a) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1103(a), routinely transacts business in the District of Oklahoma, supervises the Oklahoma City ICE Field Office, and is legally responsible for pursuing Johal's detention and removal. As such, Respondent Noem is a legal custodian of Johal.
22. Respondent Department of Homeland Security ("DHS") is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
23. Respondent Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement and is sued in his official capacity. Defendant Lyons is responsible for

Petitioner's detention.

24. Respondent Immigration and Customs Enforcement ("ICE") is the subagency within the Department of Homeland Security responsible for implementing and enforcing the Immigration & Nationality Act, including the detention of noncitizens.
25. Respondent Marcos Charles is the Acting Executive Associate Director for ICE Enforcement and Removal Operations ("ERO").
26. Respondent Mark Siegel is being sued in his official capacity as the Field Office Director for the Oklahoma City Field Office for ICE within DHS. In that capacity, Field Director Siegel has supervisory authority over the ICE agents responsible for detaining Johal.
27. Respondent Scarlet Grant is being sued in her official capacity as the Warden of the Cimarron Correctional Facility. Because Petitioner is detained in the Cimarron Correctional Facility, Respondent Grant has immediate day-to-day control over Petitioner.

EXHAUSTION

28. ICE asserts authority to jail Johal pursuant to the discretionary detention provisions of 8 U.S.C. § 1226(a). No statutory requirement of exhaustion applies to Johal's challenge to the lawfulness of his detention. *See, e.g., Araujo-Cortes v. Shanahan*, 35 F. Supp. 3d 533, 538 (S.D.N.Y. 2014) ("There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention."); *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025

WL 1193850, at *11 (W.D. Wash. Apr. 24, 2025) (citing *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019) (“this Court ‘follows the vast majority of other cases which have waived exhaustion based on irreparable injury when an individual has been detained for months without a bond hearing, and where several additional months may pass before the BIA renders a decision on a pending appeal.”)); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *5 (D. Mass. July 7, 2025) ((citing *Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 146 (1992))).

29. To the extent that prudential consideration may require exhaustion in some circumstances, Johal has exhausted all effective administrative remedies available to him. Any further efforts would be futile, especially considering the extended processing times for appeals at the BIA.
30. Prudential exhaustion is not required when to do so would be futile or “the administrative body . . . has . . . predetermined the issue before it.” *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds as stated in Woodford v. Ngo*, 548 U.S. 81 (2006).
31. Prudential exhaustion is also not required in cases where “a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim.” *McCarthy*, 503 U.S. at 147. Every day Johal is unlawfully detained causes him and his family irreparable harm. *Jarpa v. Mumford*, 211 F. Supp. 3d 706, 711 (D. Md. 2016) (“Here, continued loss of liberty without any individualized bail determination constitutes the kind of irreparable harm which forgives exhaustion.”);

Matacua v. Frank, 308 F. Supp. 3d 1019, 1025 (D. Minn. 2018) (explaining that “loss of liberty” is “perhaps the best example of irreparable harm”); *Hamama v. Adducci*, 349 F. Supp. 3d 665, 701 (E.D. Mich. 2018) (holding that “detention has inflicted grave” and “irreparable harm” and describing the impact of prolonged detention on individuals and their families).

32. Prudential exhaustion is additionally not required in cases where the agency “lacks the institutional competence to resolve the particular type of issue presented, such as the constitutionality of a statute.” *McCarthy*, 503 U.S. at 147–48. Immigration agencies have no jurisdiction over constitutional challenges of the kind Johal raises here. *See, e.g., Matter of C-*, 20 I. & N. Dec. 529, 532 (BIA 1992) (“[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.”); *Matter of Akram*, 25 I. & N. Dec. 874, 880 (BIA 2012); *Matter of Valdovinos*, 18 I. & N. Dec. 343, 345 (BIA 1982); *Matter of Fuentes-Campos*, 21 I. & N. Dec. 905, 912 (BIA 1997); *Matter of U-M-*, 20 I. & N. Dec. 327 (BIA 1991).
33. Because requiring Johal to exhaust administrative remedies would be futile, would cause him irreparable harm, and the immigration agencies lack jurisdiction over the constitutional claims, this Court should not require exhaustion as a prudential matter.
34. In any event, Johal has indeed exhausted all remedies available to him.
35. The Attorney General has denied Johal release based on a pure inexcusable error of law.

FACTUAL ALLEGATIONS & PROCEDURAL HISTORY

36. Johal re-alleges and incorporates by reference each allegation contained in ¶¶ 1-35 as if set forth fully herein.
37. Johal has already established to the immigration judge's satisfaction that he is not a flight risk.
38. Johal has already established to the immigration judge's satisfaction that he is not a danger to persons or property.
39. Prior to his request for an immigration bond on October 31, 2025, which was decided on November 17, 2025, Johal has never previously requested or been denied an immigration bond by an immigration judge.

REMEDY

40. Respondents' detention of Johal violates the Due Process Clause of the United States Constitution. Johal's ongoing detention violates the Fifth Amendment's guarantee that "[n]o person shall be . . . deprived of life, liberty, or property without due process of law." U.S. Const., amend. V.
41. It is well-established that agencies are required to follow their own regulations and that failure to follow such regulations can and often does constitute a due process violation when the noncompliance relates to a regulation affecting liberty interests. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954) (agencies are required to follow their own regulations); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) ("Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures. This is so even where the internal procedures are

possibly more rigorous than otherwise would be required.”); *Phan v. Noem*, No. 25-CV-2422-RBM-MSB, 2025 WL 2898977, at *5 (S.D. Cal. Oct. 10, 2025) (“**The Court's research indicates that every district court, except one, to consider the issue has ‘determined that where ICE fails to follow its own regulations in revoking release, the detention is unlawful and the petitioner's release must be ordered.’**”); *Hoac v. Becerra*, No. 2:25-CV-01740-DC-JDP, 2025 WL 1993771, at *4 (E.D. Cal. July 16, 2025) (finding petitioner was likely to succeed on unlawful redetention claim because “there is no indication that an informal interview was provided”); *Rombot v. Souza*, 296 F. Supp. 3d 383, 387-88 (D. Mass. 2017) (holding that ICE’s failures to follow regulatory revocation procedures rendered detention unlawful); *Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 164 (W.D.N.Y. 2025) (“because ICE did not follow its own regulations in deciding to redetain [the petitioner], his due process rights were violated, and he is entitled to release”); *Pham v. Bondi*, No. 25-CV-1157-SLP, 2025 WL 3243870, at *1 (W.D. Okla. Nov. 20, 2025) (“A majority of district courts have found such regulatory defects amount to due process violations that entitle a petitioner to habeas relief.”).

42. Johal remains detained solely because the immigration judge misapplied 8 C.F.R. § 1003.19(e) by holding it applies to initial bond determinations. This is untenable. One cannot demonstrate changed circumstances from an event (*i.e.*, a prior bond hearing and bond denial) that never occurred.
43. Johal seeks immediate release. Alternatively, Johal seeks an order requiring the immigration judge to set a reasonable bond.

44. Although neither the Constitution nor the federal habeas statutes delineate the necessary content of habeas relief, *I.N.S. v. St. Cyr*, 533 U.S. 289, 337 (2001) (Scalia, J., dissenting) (“A straightforward reading of [the Suspension Clause] discloses that it does not guarantee any content to . . . the writ of habeas corpus”), implicit in habeas jurisdiction is the power to order release. *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (“[T]he habeas court must have the power to order the conditional release of an individual unlawfully detained.”).
45. The Supreme Court has noted that the typical remedy for unlawful detention is release from detention. *See, e.g., Munaf v. Geren*, 553 U.S. 674 (2008) (“The typical remedy for [unlawful executive detention] is, of course, release.”); *see also Wajda v. United States*, 64 F.3d 385, 389 (8th Cir. 1995) (stating the function of habeas relief under 28 U.S.C. § 2241 “is to obtain release from the duration or fact of present custody.”).
46. That courts with habeas jurisdiction have the power to order outright release is justified by the fact that, “habeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), and that as an equitable remedy, federal courts “[have] broad discretion in conditioning a judgment granting habeas relief [and are] authorized . . . to dispose of habeas corpus matters ‘as law and justice require.’” *Hilton v. Braunskill*, 481 U.S. 770, 775 (1987) (quoting 28 U.S.C. § 2243). An order of release falls under court’s broad discretion to fashion relief. *See, e.g., Jimenez v. Cronen*, 317 F. Supp. 3d 626, 636 (D. Mass. 2018) (“Habeas corpus is an equitable

remedy. The court has the discretion to fashion relief that is fair in the circumstances, including to order an alien's release.”).

47. Immediate release is an appropriate remedy in this case.

CAUSE OF ACTION

COUNT ONE: VIOLATION OF THE IMMIGRATION & NATIONALITY ACT – 8 C.F.R. § 1003.19 & 8 U.S.C. § 1226(a)

48. Johal re-alleges and incorporates by reference each allegation contained in ¶¶ 1-47 as if set forth fully herein.
49. Section 1226(a) of Title 8 of the U.S. Code and 8 C.F.R. § 1003.19 governs the detention and release of noncitizens who are pending removal proceedings under 8 U.S.C. § 1229a.
50. Respondents have failed to comply with these provisions by denying Johal a reasonable bond after finding that Johal is neither a flight risk nor a danger to persons or property.
51. No independent alternative basis supports Respondents' decision to deny Johal a reasonable bond under 8 U.S.C. § 1226(a).
52. Petitioner is therefore detained in violation of the INA.

COUNT TWO: VIOLATION OF THE FIFTH AMENDMENT

53. Johal re-alleges and incorporates by reference each allegation contained in ¶¶ 1-47 as if set forth fully herein.
54. The Fifth Amendment Due Process Clause protects against arbitrary detention and requires that agencies follow their own regulations, especially when those

regulations affect liberty interests.

55. Johal is not subject to mandatory custody under the Immigration & Nationality Act. He is eligible for a bond under 8 U.S.C. § 1226(a) and has met his burden of demonstrating that he must be issued a reasonable bond because he is neither a flight risk nor a danger to persons or property. Respondents are nonetheless denying Johal bond based on a plain misapplication of law. Respondents have violated Johal's Fifth Amendment guarantee of due process.

**COUNT THREE: VIOLATION OF THE ADMINISTRATIVE
PROCEDURES ACT – CONTRARY TO LAW AND ARBITRARY
AND CAPRICIOUS AGENCY POLICY**

56. Johal re-alleges and incorporates by reference each allegation contained in ¶¶ 1-47 as if set forth fully herein.
57. The APA provides that a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).
58. Respondents have failed to articulate any reasoned explanation for refusing to set a bond for Petitioner.
59. Respondents have failed to articulate any reasoned explanation for deviating from or otherwise ignoring or failing to comply with the plain language of 8 C.F.R. § 1003.19(e).
60. Respondents' decisions, which represent changes in the agencies' policies and positions, have considered factors that Congress did not intend to be considered,

have entirely failed to consider important aspects of the case, and have offered explanations for their decisions that run counter to the evidence before the agencies.

61. Respondents' decision to redetain Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner, Sukhjinder Singh Kewal Sin Johal, asks this Court for the following relief:

1. Assume jurisdiction over this matter.
2. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. Ch. 153.
 - a. Issue an Order to Show Cause ordering Respondents to state the true cause of Petitioner's detention within 3 days of the Court's issuance of the OSC.
 - b. Pursuant to 28 U.S.C. § 1657, issue an Order shortening the time for making any objections to the magistrate's forthcoming Report & Recommendation from 14 days to 2 days
3. Order Johal's immediate release. Alternatively, order the immigration judge to set a reasonable bond for Johal within 24 hours.
4. Declare that Respondents' action is arbitrary and capricious.
5. Declare that Respondents failed to adhere to binding regulations and precedent.
6. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
7. Grant Johal reasonable attorney fees and costs pursuant to the Equal Access to

Justice Act, 28 U.S.C. § 2412(d)(1)(A).

8. Grant all further relief this Court deems just and proper.

DATED: November 24, 2025

Respectfully submitted,

RATKOWSKI LAW PLLC

/s/ Nico Ratkowski

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Attorney for Petitioner

Verification by Petitioner Pursuant to 28 U.S.C. § 2242

I am submitting this verification because I am the Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding my detention status, are true and correct to the best of my knowledge. I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that all of the factual allegations and statements in the Petition are true and correct to the best of my knowledge and belief.

/s/ Sukhjinder Singh Kewal Sin Johal
Sukhjinder Singh Kewal Sin Johal

Dated: November 24, 2025