

entered the United States without inspection on or about February 17, 2024, and has filed an administrative application for asylum with the Executive Office of Immigration Review. Since that date, Respondents have unlawfully arrested and detained numerous individuals throughout the United States and within Illinois, jailing them without any possibility of release and without any due process protections based upon an erroneous misclassification of detention provisions as being subject to 8 U.S.C. § 1225, which does not allow for release on bond. Petitioner falls into this category of individuals and is subject to continued detention during the pendency of his immigration court hearings.

Introduction

1. It is believed that Petitioner is presently being detained by Immigration and Customs Enforcement (“ICE”) at the North Lake Processing Center in Baldwin, Michigan. He was detained, without warrant, on October 6, 2025 in Chicago, Illinois.
2. Since his apprehension, Petitioner was scheduled for a hearing before an Immigration Judge, however, not granted a meaningful opportunity to have a hearing or be released on a immigration bond.
3. Petitioner is entitled to a hearing before an Immigration Judge, who will determine his ultimate removability and any applications for relief. However, until approximately the last three months, Respondents have abruptly and unlawfully reversed decades of settled immigration practice where individuals in Petitioner’s situation would otherwise be entitled to release upon posting an immigration bond while removal proceedings remain pending. Respondents’ continued detention of Petitioner without a hearing on an immigration bond is in violation of law. *See* 8 U.S.C. § 1229a *cf.* *Jennings v. Rodriguez*,

583 U.S. 281, 287 (2018) (under section 1225 proceedings individuals are subject to detention without a bond hearing when encountered at “borders and ports of entry”).

4. Numerous individuals in Petitioner’s position have challenged the Respondent’ new interpretation that individuals detained in the United States and not at the border are subject to mandatory detention without a bond hearing and its application to all civil immigration detainees and in all Immigration Courts, including people arrested and detained in immigration proceedings in Illinois. *See Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Chogllo Chafra v. Scott*, 2025 WL 2688541(D. Me. Sept. 2, 2025); *Ayala Casun v. Hyde*, 2025 WL 280679 (D.R.I. Oct. 2, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y Aug. 13, 2025); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *B.D.V.S. v. Forestal*, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025); and *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025).

Jurisdiction and Venue

5. 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.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. section 701 *et seq.*
6. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C § 2241, and Article I, section 9, clause 2 of the United States Constitution (the “Suspension Clause”), as Petitioner is presently subject to immediate detention and custody under color of authority of the United States government, and said custody is in violation of the Constitution, law or treaties of the United States.

7. 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 Fifth and Fourteenth Amendments of the United States Constitution. Specifically, “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“Aliens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”).
8. This Court may grant relief pursuant to 28 USC § 2241, the Declaratory Judgments Act, 28 USC § 2201 *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), and the All Writs Act, 28 USC §1651.
9. Venue lies in this Court pursuant to 28 U.S.C. § 1391(e). The Petitioner is detained by ICE under the control of the Detroit Field Office in Detroit, Michigan, and because the processing facility where the Petitioner is detained is located in the Western District of Michigan.

Parties

10. Petitioner DIPAKKUMAR BALDEVBHAI PRAJAPATI is a citizen and national of India and presently in the custody of ICE. He is a resident of the State of Illinois and currently detained in Baldwin, Michigan, having filed an application for asylum with EOIR which remains pending. Pet. Ex. A.

11. Respondent ROBERT LYNCH is being sued in his official capacity only, as the Field Office Director of the Detroit Field Office of Immigration and Customs Enforcement. As such, he is charged with the detention and removal of aliens which fall under the jurisdiction of the Detroit Field Office. The Detroit Field Office has direct control over Petitioner's detention and removal.
12. Respondent TODD M. LYONS is being sued in his official capacity only, as the Acting Director of Immigration and Customs Enforcement. As such, he is charged with the detention and removal of all aliens.
13. Respondent MADISON SHEAHAN is being sued in his official capacity only, as the Acting Deputy Director of Immigration and Customs Enforcement. As such, he is charged with the detention and removal of all aliens.
14. Respondent KRISTI NOEM is being sued in her official capacity only, as the Secretary of the Department of Homeland Security ("DHS").
15. Respondent PAMELA BONDI is being sued in her official capacity only, as the Attorney General of the United States and administers the Department of Justice, including EOIR, the BIA, and the Immigration Courts.

Factual and Procedural Background

16. Petitioner, Dipakkumar Baldevbhai Prajapati is present in the United States and was placed in removal proceedings on April 5, 2024. He was released on his own recognizance (OR). Pet. Ex. B.
17. Petitioner's Notice to Appear (NTA) places him in removal proceedings pursuant to 8 U.S.C. § 1229a and charged him with being present in the United States without

admission and therefore removable pursuant to *inter alia* 8 U.S.C. § 1182(a)(6)(A)(i).

The NTA instructs him to appear for a removal hearing on March 11, 2025. Pet. Ex. C.

18. Petitioner filed his application for asylum shortly after his entry and was scheduled for his biometric appointment which he attended on December 24, 2024. His defensive application remains pending and he has not received adjudication of his claim. He has no criminal record and has peacefully resided and working in the United States with authorization since his entry in on or about April 4, 2024. Pet. Ex. D.
19. On or about October 6, 2025, while appearing for a scheduled appointment at Immigration and Customs Enforcement Chicago Field Office, he was forcibly detained. No warrant was shown or evidence provided that his OR bond status was revoked or that he fell under a class of aliens not entitled to continued release pending resolution of his application in his removal proceedings.
20. Respondents is being held, without bond, at an ICE facility. As a person arrested inside the United States and held in civil immigration detention for his pending removal proceedings, he is subject to detention pursuant to 8 U.S.C. § 1226. *See, e.g. Romero*, 2025 WL 2403827, at *1, 8 – 13 (collecting cases).
21. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a bond hearing and Petitioner-Petitioner requests such a bond hearing consistent with established precedent.
22. Under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the responsible administrative agency has predetermined that Petitioner will be denied a bond hearing, and the government is holding Petitioner under the purported authority of 8 U.S.C. § 1225(b)(2), under which he will not receive a bond hearing.

23. Since *Matter of Yajure Hurtado* has been decided dozens of individual habeas corpus petitions challenging its misclassification of bond-eligible detainees have been filed in District Courts.
24. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a.
25. First, 8 U.S.C. § 1226 authorizes detention for individuals in removal proceedings under 8 U.S.C. § 1229a. These individuals are generally entitled to a bond hearing unless they have been convicted or arrested of certain crimes which are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).
26. Second, the INA provides for mandatory detention for those subject to expedited removal pursuant to 8 U.S.C. § 1225(b)(1) and other noncitizen applicants for admission at the border who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).
27. Final, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings under 8 U.S.C. § 1231(a),(b).
28. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2), which were enacted as part of the Illegal Immigration and Reform and Immigrant Responsibility Act (IIRIRA) of 1996 and most recently section 1226(a) was amended in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
29. Following the enactment of IIRIRA in 1996, EOIR drafted regulations indicating that individuals present in the country without inspection, were not considered detained under § 1225 but rather detained under § 1226(a) and thus entitled to a bond hearing. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

30. Thus, as in Petitioner’s case, absent ineligibility due to a criminal history, individuals in § 1229a removal proceedings are entitled to a bond hearing consistent with almost 30 years of practice where individuals arrested inside the United States, even after initially entering without inspection, fall within § 1226 detention proceedings and entitled to request and receive bond. *See Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n. 9 (D. Mass. July 25, 2025) (citing the United States Solicitor General’s representation to the Supreme Court at oral argument that “DHS’s long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended”).
31. On July 8, 2025, ICE, “in coordination with” the Department of Justice, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice.
32. A series of Board of immigration Appeals (BIA) decisions under authority of the EOIR, sought to apply § 1225 (b) bond ineligibility to individuals apprehended inside the United States.
33. Petitioner acknowledges that the Supreme Court has held that noncitizens “seeking *initial* admission to the United States” have limited access to constitutional protections. *Landon v. Plasencia*, 459 U.S. 21, 32 (1982).

Causes of Action

Count I – Writ of Habeas Corpus

34. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

35. The Respondents are detaining the Petitioner under authority it does not possess, as the Petitioner is subject to detention under 8 U.S.C. § 1226(a), which affords a right to a bond hearing.
36. The application of 8 U.S.C. § 1225(b)(2) to Petitioner's continued detention without a bond hearing violates 8 U.S.C. § 1226(a), which governs his case.
37. Because the petitioner is in federal custody, and there is no adequate remedy through the immigration courts, federal habeas relief is proper under 28 U.S.C. § 2241.
38. If Petitioner prevails, he requests attorney's fees and costs pursuant to the Equal Access to Justice Act, as amended 28 U.S.C. § 2412.

Count II – Unlawful Agency Withholding Under the Administrative Procedure Act

39. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
40. Respondents' continued detention of Petitioner without affording him a bond hearing also constitutes unlawful agency action under the Administrative Procedure Act ("APA"), 5 U.S.C. § 701-706. The abrupt departure from longstanding precedent without reasoned explanation violates the Administrative Procedure Act.
41. For decades, immigration judges exercised bond jurisdiction over individuals detained under INA § 236(a), including those who entered without inspection. *See Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006); *see also* Ex. E., Pre-2025 Unpublished BIA Bond Decisions. That framework allowed for individualized custody determination consistent with both statutory text and constitutional principles. These cases include, without limitation, the following:

- *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006) (establishing criteria of danger to community and flight risk as factors for immigration bond requests);
- *In re L-E-V-H-*, AXXX-XXX-504 (BIA, Dec. 21, 2018) (despite noncitizen's testimony he had "turned himself in to officials at the border," held noncitizen had entered without inspection and was therefore not "arriving alien");
- *In re A-R-S-*, AXXX-XXX-161 (BIA, June 25, 2020) (remanding to develop record where noncitizen who had entered without inspection but had been misclassified as "arriving alien");
- *In re M-D-M-*, AXXX-XXX-797 (BIA, Aug. 24, 2020) (despite recent arrest, granted bond to noncitizen who had lived in the U.S. for over 20 years); and
- *In re F-P-J-*, AXXX-XXX-699 (BIA, Oct. 22, 2020) (where noncitizen had a pending circuit court appeal and IJ failed to consider alternatives to detention, granted bond to noncitizen who had lived in the U.S. for over 17 years).

42. The APA requires agencies to engage in reasoned decision-making, and prohibits arbitrary and capricious action. 5 U.S.C. §706(2)(A). The BIA's reversal of decades of established law without acknowledging or adequately explaining its departure is the very definition of arbitrary and capricious action. *See Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 221-22 (2016).

43. Although the Petitioner properly filed a bond application after entering ICE custody, it is believed the immigration judge denied the bond request, determining he did not have jurisdiction based on recent BIA precedent.

44. By treating individuals such as Petitioner as subject to mandatory detention under Section 235(b), Respondents have applied an unlawful, arbitrary interpretation of the statute that

is inconsistent with the plain language of Section 236(a) and unsupported by reasoned analysis.

Request for Declaratory and Injunctive Relief

45. Petitioner respectfully requests that this Court grant injunctive relief directing Respondents to order his immediate release under reasonable conditions of supervision, or in the alternative, to provide him with an individualized custody redetermination hearing under INA § 236(a) within seven (7) days. Petitioner intends to seek a Temporary Restraining Order through a separate motion that is forthcoming, and upon a final hearing, Petitioner asks for any further injunctive relief as appropriate.

46. The Supreme Court has made clear that such extraordinary relief depends on a four-factor test: likelihood of success on the merits, irreparable harm, the balance of equities, and the public interest. *Nken v. Holder*, 556 U.S. 418, 434–35 (2009). As explained below, Petitioner satisfies each of these factors.

A. Mr. Prajapati Is Likely to Succeed on the Merits of His Petition

47. Mr. Prajapati has a strong likelihood of success on the merits of his claims. Numerous district courts, including some from within the Fifth Circuit, have already determined that ICE has been detaining noncitizens unlawfully, in violation of their rights to procedural due process, just like Mr. Prajapati. Repeatedly, federal courts have concluded that noncitizens who are detained under Section 236(a), are entitled to individualized bond hearings before an immigration judge.

48. Additionally, Mr. Prajapati has raised a constitutional claim under the Fifth Amendment, as prolonged detention without any opportunity for individualized custody review violates due process.

49. Taken together, these statutory and constitutional grounds present not merely a plausible claim, but a compelling one. Under *Nken v. Holder*, 556 U.S. 418, 434 (2009), likelihood of success is the most critical factor in evaluating interim relief. Here, Petitioner’s claim is exceptionally strong.

B. Mr. Prajapati Will Suffer Irreparable Harm If An Injunction Does Not Issue.

50. If this Court does not grant immediate relief, Mr. Prajapati will continue to suffer irreparable harm. The Supreme Court has recognized that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Constitution. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Every day Mr. Prajapati remains confined without access to the procedures guaranteed by law constitutes a grave and irreversible injury.

51. Even if Mr. Prajapati were eventually granted a bond hearing after protracted litigation, the harm inflicted by the period of unlawful detention—loss of liberty, disruption of family life, psychological strain, and reputational damage—could never be undone. As *Nken* instructs, irreparable harm cannot be speculative; it must be actual and concrete. 556 U.S. at 435. Mr. Prajapati’s ongoing imprisonment without a lawful hearing meets that standard.

C. Balance of Equities Weighs in Mr. Prajapati’s Favor.

52. The balance of equities tips decisively in Petitioner’s favor. On his side lies the interest in safeguarding one of the most fundamental rights recognized in our legal system—the right not to be arbitrarily detained without process. On the government’s side, the only asserted interest is administrative convenience in applying the BIA’s recent, and in this Circuit nonbinding, precedents.

53. There is no evidence that Petitioner poses a danger to the community or a risk of flight, and

the dismissal of his recent criminal indictment further diminishes any legitimate basis for continued detention. In contrast, every additional day of unlawful confinement inflicts significant harm on Petitioner. When weighed against each other, the equities clearly support granting immediate relief.

D. There is Strong Public Interest in Maintaining the Pre-2025 Status Quo.

54. Finally, the public interest strongly supports the grant of injunctive relief. The Supreme Court in *Nken* explained that when the government is the opposing party, the balance of equities and the public interest merge. 556 U.S. at 435. The public has no interest in perpetuating unlawful detention; rather, the public's interest is served by ensuring that government agencies act within the bounds of statutory and constitutional authority.
55. Granting Petitioner's release, or in the alternative, granting him an individualized bond hearing, promotes confidence in the integrity of the immigration system, reinforces respect for the rule of law, and prevents the arbitrary deprivation of liberty. Protecting fundamental due process rights is not just in Petitioner's interest, but in the interest of the public at large.
56. Each factor of the equitable test weighs heavily in Mr. Prajapati's favor. He has shown a substantial likelihood of prevailing on the merits based on the interpretation of Section 236(a) by various federal district courts and the Due Process Clause; he faces irreparable harm each day he remains detained without lawful process; the equities tilt overwhelmingly toward protecting his liberty; and the public interest is best served by ensuring that immigration detention is consistent with statutory and constitutional limits.
57. For these reasons, this Court should grant injunctive relief as soon as practicable, requiring Respondents immediately to release Mr. Prajapati or provide him with a bond hearing in accordance with INA § 236(a), 8 U.S.C. § 1226(a).

Relief Requested:

WHEREFORE, Petitioner Dipakkumar Baldevbhai Prajapati, respectfully request this
Honorable Court:

- A. Accept jurisdiction over this action;
- B. Grant declaratory relief by rendering findings of fact and conclusions of law that
Respondents have acted contrary to law and have abused Petitioner's due process rights;
- C. Grant the writ of habeas corpus;
- D. Grant any other relief that is equitable and just.

Respectfully Submitted,

Khalaf & Abuzir, LLC
10003 S Roberts Road
Palos Hills, IL 60465
Tel: (708) 233-1161
Fax: (708)233-1161
Email: omar@immigrationjd.com

By: s/ Omar Abuzir
Counsel for Petitioner
Illinois Bar No. 6257708

VERIFICATION

I, Omar Abuzir, declare as follows:

I am an attorney admitted to practice law in the State of Illinois and admitted in the Western District of Michigan.

Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on November 25, 2025.

s/Omar Abuzir
OMAR ABUZIR
Khalaf & Abuzir LLC
Attorney for Petitioner