

1 MARTIN O'HARA (SBN 313973)
2 5155 Rosecrans Ave., Suite 250
3 Hawthorne, CA 90250
4 Tel: (213) 265-7348
5 Fax: (213) 289-2940
6 Email: Martin@Martinoharalaw.com

7 Attorney for Petitioner

8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10
11 **PARDEEP SHARMA**
12 **aka PARDEEP SINGH**

13 *Petitioner,*

Case No.: '25CV3335 BAS DDL

14 v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

15 **JEREMY CASEY, Warden, Imperial**
16 **Regional Detention Facility; DANIEL A.**
17 **BRIGHTMAN, Field Office Director,**
18 **San Diego Field Office, U.S. Immigration**
19 **and Customs Enforcement; TODD M.**
20 **LYONS, Acting Director, U.S.**
21 **Immigration and Customs Enforcement;**
22 **KRISTI NOEM, Secretary of the U.S.**
23 **Department of Homeland Security; and**
24 **PAMELA JO BONDI, Attorney General**
25 **of the United States *in their official***
26 ***capacities***

27 *Respondents.*

INTRODUCTION

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3 1. Petitioner, Pardeep Sharma (aka Pardeep Singh), is in the physical custody
4 of Respondents at the Imperial Regional Detention Facility, located in Calexico,
5 California. His is unlawfully detained pursuant to mandatory detention policies recently
6 adopted by the Department of Homeland Security (DHS), in direct collaboration with the
7 adjudicative body with jurisdiction over immigrants, the Executive Office of Immigration
8 Review (EOIR).
9
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11 2. Petitioner is charged with, *inter alia*, having entered the United States on or
12 about December 3, 2022 without admission or parole. *See* 8 U.S.C. §§ 1182(a)(6)(A)(i).
13 He has remained in the United States since that date. Based on this allegation, DHS and
14 EOIR deem Petitioner subject to mandatory detention as “applicants for admission” who
15 are “seeking admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to
16 mandatory detention.
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19 3. DHS and EOIR each have nationwide policies mandating the detention of all
20 persons who entered without admission or parole, regardless of whether that person was
21 apprehended upon arrival. Such persons detained are therefore ineligible to be released
22 on bond.
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25 4. Most recently, on September 5, 2025, the Board of Immigration Appeals
26 (BIA or Board) issued a precedent decision, binding on all immigration judges, holding
27 that an immigration judge has no authority to consider bond requests for any person who,
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1 like Petitioner, entered the United States without inspection or admission. *See Matter of*
2 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board determined that such
3 individuals are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and
4 therefore ineligible to be released on bond.
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7 5. As such, Petitioner will be categorically denied bond under DHS's and
8 EOIR's nationwide policy of denying bond to persons like Petitioner.
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10 6. Petitioner's detention based on 8 U.S.C. § 1225(b)(2) violates the plain
11 language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply
12 to individuals like Petitioner, who previously entered and are now residing in the United
13 States. Instead, such individuals are subject to a different statute, § 1226(a), that allows
14 for release on conditional parole or bond. Indeed, 8 U.S.C. § 1226(a) expressly applies to
15 people who, like Petitioner, are charged as inadmissible for having entered the United
16 States without admission or parole.
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19 7. Respondents' new legal interpretation is plainly contrary to the statutory
20 framework and contrary to decades of agency practice applying § 1226(a) to people like
21 Petitioner.
22

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24 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be
25 released unless Respondents provide a bond hearing under § 1226(a) within seven days.
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1 **CUSTODY**

2 9. Petitioner is in the physical custody of Respondents while imprisoned
3
4 Imperial Regional Detention Facility, an immigration detention facility in Calexico,
5 California. Petitioner is under the direct control of Respondents and their agents. (See
6 Exhibit C, ICE Form I-830, Notice to EOIR: Alien Address).
7

8 **JURISDICTION**

9 10. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
10 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
11 Constitution (the Suspension Clause).
12

13 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
14 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
15

16 **VENUE**

17 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
18 484, 493–500 (1973), venue lies in the United States District Court for the Southern
19 District of California, the judicial district in which Petitioner is currently detained.
20

21 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
22 Respondents are employees, officers, and agencies of the United States, and because a
23 substantial part of the events or omissions giving rise to the claims occurred in the
24 Southern District of California.
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REQUIREMENTS OF 28 U.S.C. § 2243

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3 14. The Court must grant the petition for writ of habeas corpus or order
4 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28
5 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return
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7 “within three days unless for good cause additional time, not exceeding twenty days, is
8 allowed.” *Id.*

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10 15. Habeas corpus is “perhaps the most important writ known to the
11 constitutional law . . . affording as it does a swift and imperative remedy in all cases of
12 illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
13 added). “The application for the writ usurps the attention and displaces the calendar of
14 the judge or justice who entertains it and receives prompt action from him within the four
15 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation
16 omitted).
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20 **PARTIES**

21 16. Petitioner was arrested by ICE on November 11, 2025, and has been
22 detained at Imperial Regional Detention Facility since that date. He has resided in the
23 United States since December 3, 2022.

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25 17. Respondent Daniel A. Brightman is the Director of the San Diego Field
26 Office of ICE’s Enforcement and Removal Operations division. As such, Mr. Brightman
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1 is Petitioner's immediate custodian and is responsible for his detention and removal. He
2 is named in his official capacity.
3

4 18. Respondent Jeremy Casey is the Warden of the Imperial Regional Detention
5 Facility, in which Petitioner remains incarcerated. He has immediate physical custody of
6 Petitioner. He is sued in his official capacity.
7

8 19. Respondent Kristi Noem is the Secretary of the Department of Homeland
9 Security. She is responsible for the implementation and enforcement of the Immigration
10 and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
11 detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her
12 official capacity.
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15 20. Respondent Pamela Bondi is the Attorney General of the United States. She
16 is responsible for the Department of Justice, of which the Executive Office for
17 Immigration Review and the immigration court system it operates is a component
18 agency. She is sued in her official capacity.
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21 21. Respondent Department of Homeland Security (DHS) is the federal agency
22 responsible for implementing and enforcing the INA, including the detention and removal
23 of noncitizens.
24

25 22. Respondent Executive Office for Immigration Review (EOIR) is the federal
26 agency responsible for implementing and enforcing the INA in removal proceedings,
27 including for custody redeterminations in bond hearings.
28

LEGAL FRAMEWORK

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3 23. The INA prescribes three basic forms of detention for the vast majority of
4 noncitizens in removal proceedings.

5 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
6 removal proceedings before an Immigration Judge (IJ). *See* 8 U.S.C. § 1229a. Individuals
7 in § 1226(a) detention are generally entitled to a bond hearing at the outset of their
8 detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
9 arrested, charged with, or convicted of certain crimes are subject to mandatory detention,
10 see 8 U.S.C. § 1226(c).
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13 25. Second, the INA provides for mandatory detention of noncitizens subject to
14 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking
15 admission referred to under § 1225(b)(2).
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18 26. Last, the INA also provides for detention of noncitizens who have been
19 ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. §
20 1231(a)–(b).
21

22 27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
23

24 28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part
25 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996,
26 Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583,
27
28

1 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley
2 Act, Pub. L. No.119-1, 139 Stat. 3 (2025).
3

4 29. Following the enactment of the IIRIRA, EOIR drafted new regulations
5 explaining that, in general, people who entered the country without admission or parole
6 were not considered detained under § 1225 and that they were instead detained under §
7 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of
8 Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312,
9 10323 (Mar. 6, 1997).
10
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12 30. Thus, in the decades that followed, most people who entered without
13 admission or parole and were placed in standard removal proceedings received bond
14 hearings, unless their criminal history rendered them ineligible. That practice was
15 consistent with many more decades of prior practice, in which noncitizens who were not
16 deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer.
17 *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
18 (noting that § 1226(a) simply “restates” the detention authority previously found at §
19 1252(a)).
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23 31. On July 8, 2025, ICE, “in coordination with” the Department of Justice,
24 announced a new policy that rejected this well-established understanding of the statutory
25 framework and reversed decades of practice.
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1 32. The new policy, entitled “Interim Guidance Regarding Detention Authority
2 for Applicants for Admission,”¹ claims that all persons who entered the United States
3 without admission or parole shall now be deemed “applicants for admission” under 8
4 U.S.C. § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A).
5
6 The policy applies regardless of when a person is apprehended, and affects those who
7 have resided in the United States for months, years, and even decades.
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9 33. On September 5, 2025, the Board of Immigration Appeals adopted this same
10 position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, the Board
11 held that all noncitizens who entered the United States without admission or parole are
12 considered applicants for admission who are seeking admission and are ineligible for IJ
13 bond hearings.
14

15 34. Since Respondents adopted their new policies, several federal courts have
16 rejected their new interpretation of the INA’s detention authorities. Courts have likewise
17 rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.
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20 35. Even before ICE or the BIA introduced these nationwide policies,
21 Immigration Judges in the Tacoma, Washington immigration court stopped providing
22 bond hearings for persons who entered the United States without inspection and who
23 have since resided here. There, the U.S. District Court in the Western District of
24 Washington found that such a reading of the INA is likely unlawful and that § 1226(a),
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¹ Available at: <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
2 States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).
3

4 36. A growing number of federal courts have rejected ICE and EOIR's
5 expanded interpretation of the Immigration and Nationality Act's detention provisions.
6 These courts have consistently held that § 1226(a), not § 1225(b)(2), governs the
7 detention authority applicable in these cases. For example, courts in Massachusetts,
8 Arizona, New York, Minnesota, California, and Nebraska have reached this conclusion.
9
10 *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7,
11 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL
12 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR
13 (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation*
14 *adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13,
15 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y.
16 Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411
17 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW
18 (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
19 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373
20 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-
21 CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*,
22 No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*,
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1 No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E.*
2 *v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn.
3 Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL
4 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-
5 MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No.
6 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes*
7 *v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao*
8 *v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also*,
9 *e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3,
10 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)
11 authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
12 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-
13 JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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37. These decisions reflect a clear judicial consensus that the government’s
reliance on § 1225(b)(2) is misplaced in cases involving those whose immigration status
lawfully falls under § 1226(a).

38. Courts have uniformly rejected DHS’s and EOIR’s new interpretation
because it defies the INA. As these courts have explained, the plain text of the statutory
provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

1 39. Indeed, according to the I-220A, Release on Recognizance document issued
2 to Respondent upon his encounter with Government officials, as well as the DHS's own
3 factual allegations contained in the Notice to Appear, the DHS themselves determined
4 that Petitioner had entered the U.S. under the INA and thus falls under § 1226(a), not §
5 1225(b).
6
7

8 40. Subsection 1226(a) applies by default to all persons "pending a decision on
9 whether the [noncitizen] is to be removed from the United States." These removal
10 hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[]
11 [noncitizen]."
12

13 41. The text of § 1226 also explicitly applies to people charged as being
14 inadmissible, including those who entered without admission or parole. See 8 U.S.C. §
15 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default,
16 such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez*
17 court explained, "[w]hen Congress creates 'specific exceptions' to a statute's
18 applicability, it 'proves' that absent those exceptions, the statute generally applies."
19 *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs.,*
20 *P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).
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25 42. Section 1226 therefore leaves no doubt that it applies to people who face
26 charges of being inadmissible to the United States, including those who are present
27 without admission or parole.
28

1 43. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
2 who recently entered the United States. The statute’s entire framework is premised on
3 inspections at the border of people who are “seeking admission” to the United States. 8
4 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
5 detention scheme applies “at the Nation’s borders and ports of entry, where the
6 Government must determine whether a[] [noncitizen] seeking to enter the country is
7 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

8 44. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
9 apply to people like Petitioner, who were encountered at the border and released after a
10 quasi-judicial determination by an immigration official on a form I-220A as an
11 uninspected entrant. The Government’s own issuance of an I-220A placing Petitioner in
12 custody under 8 U.S.C. § 1226(a) reflects a discretionary, fact-based determination that
13 Petitioner was not subject to mandatory detention under § 1225(b)(2)(A). This quasi-
14 judicial decision was made by DHS at the outset of proceedings, based on the facts
15 available to both parties and Petitioner’s own admissions. Critically, DHS itself alleged in
16 the Notice to Appear that Petitioner “entered the United States without inspection and
17 without parole or lawful admission,” a factual assertion that squarely contradicts the
18 Government’s current position—adopted wholesale by the Board of Immigration
19 Appeals—that Petitioner is ineligible to apply for bond before EOIR. This reversal
20 undermines the integrity of the adjudicative process and triggers the principles of issue
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1 preclusion recognized in *B&B Hardware, Inc. v. Hargis Indus., Inc.*, 575 U.S. 138
2 (2015), which require courts to respect agency determinations when the ordinary
3 elements of preclusion are met.
4

5 45. It has been the settled practice for decades for immigration officials to issue
6 an I-220A, or an Order of Release on Recognizance, to those who encounter immigration
7 officials at or near the border. The issuance of an I-220A under § 236 is not a ministerial
8 act but a formal adjudication of custody status, reflecting DHS’s determination that the
9 individual falls under the discretionary detention framework of § 236 rather than the
10 mandatory detention provisions of § 235(b). The Supreme Court has “long favored
11 application of the common law doctrines of collateral estoppel (as to issues) and res
12 judicata (as to claims) to those determinations of administrative bodies that have attained
13 finality.” *Astoria Fed. Sav. & Loan Ass’n v. Solimino*, 501 U.S. 104, 108 (1991) (citing
14 *United States v. Utah Constr. & Mining Co.*, 384 U.S. 394, 422 (1966)). As the Court
15 explained in *Utah Construction*, “[w]hen an administrative agency is acting in a judicial
16 capacity and resolves disputed issues of fact properly before it which the parties have had
17 an adequate opportunity to litigate, the courts have not hesitated to apply res judicata to
18 enforce repose.” 384 U.S. at 422. This presumption applies because “Congress is
19 understood to legislate against a background of common-law adjudicatory principles.”
20 *Astoria*, 501 U.S. at 108 (citing *Briscoe v. LaHue*, 460 U.S. 325 (1983); *Isbrandtsen Co.*
21 *v. Johnson*, 343 U.S. 779, 783 (1952)). Accordingly, DHS’s prior § 236 determination—
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1 memorialized in the I-220A—constitutes a binding judgment for purposes of collateral
2 estoppel and cannot be disturbed absent materially changed circumstances or new facts.
3

4 **FACTS**

5 46. Petitioner has resided in the United States since approximately December 3,
6 2022 and currently resides physically in Calexico, California, where he is detained.
7

8 47. Upon his entry into the United States, the DHS released Petitioner into the
9 country with a Form I-220A, *Order of Release on Recognizance*, or “OREC,” which
10 found that Petitioner was detained and released under INA § 236, formally documenting
11 that he was arrested, placed in removal proceedings, and explicitly released pursuant to
12 INA § 236 (*See Exhibit A, OREC*),
13

14 48. The DHS initiated removal proceedings against Petitioner pursuant to 8
15 U.S.C. § 1229a by filing a Notice to Appear with EOIR, alleging that Petitioner entered
16 the United States without inspection, admission or parole. (*See Exhibit B, Notice to*
17 *Appear, or “NTA”*).
18

19 49. On or about November 11, 2025, in Riverside, California, Petitioner was
20 arrested by immigration agents and is now detained at the Imperial Regional Detention
21 Facility. (*See Exhibit C, ICE Form I-830, Notice to EOIR: Alien Address*).
22

23 50. In support of the factual allegations, Petitioner submits the Declaration of
24 Counsel, which provides additional background regarding the circumstances of
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1 Petitioner's arrest, detention, and removal proceedings. (See Exhibit D, Declaration of
2 Counsel).

3
4 51. At the time of his arrest, Petitioner was already in removal proceedings
5 before the Concord Immigration Court pursuant to 8 U.S.C. § 1229a. After his detention,
6 his removal proceedings were transferred to the Imperial Immigration Court. ICE has
7 charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)
8 as someone who entered the United States without inspection.
9
10

11 52. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to
12 consider any bond request made by Petitioner, and his unlawful detention cannot be
13 litigated before that body, who collaborated with the DHS (who is a party to these
14 contested proceedings) to adopt the DHS position wholesale, because such efforts would
15 be futile.
16
17

18 53. As a result, Petitioner remains in detention. Without relief from this court, he
19 faces the prospect of months, or even years, in immigration custody, separated from his
20 family and community.
21

22 **CLAIMS FOR RELIEF**

23
24 **COUNT I**
25 **Violation of the INA**

26 54. Petitioner repeats, re-alleges, and incorporates by reference each and every
27 allegation in the preceding paragraphs as if fully set forth herein.
28

1 bond and bond hearings before Immigration Judges under 8 U.S.C. § 1226 and its
2 implementing regulations.
3

4 59. Nonetheless, pursuant to the BIA case *Matter of Yajure Hurtado*, EOIR has
5 a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.
6

7 60. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
8 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
9

10
11 **COUNT III**
12 **Violation of Due Process**

13 61. Petitioner repeats, re-alleges, and incorporates by reference each and every
14 allegation in the preceding paragraphs as if fully set forth herein.
15

16 62. The government may not deprive a person of life, liberty, or property
17 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from
18 government custody, detention, or other forms of physical restraint—lies at the heart of
19 the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
20

21 63. Petitioner has a fundamental interest in liberty and being free from official
22 restraint.
23

24 64. The government’s detention of Petitioner without a bond redetermination
25 hearing to determine whether he is a flight risk or danger to others violates his right to
26 due process.
27
28

COUNT IV
Judicial Estoppel

65. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

66. The Government is judicially estopped from asserting that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation, including *Jennings v. Rodriguez*, the Government successfully argued that individuals who entered without inspection and were not apprehended near the border or within 14 days were subject to discretionary detention under § 1226(a), not mandatory detention under § 1225(b)(2)(A). See *Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7–8 (Nov. 30, 2016). Courts accepted that position. Now, the Government reverses course and asserts the opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then adopts a contrary position to gain an unfair advantage. The Government’s reversal undermines the integrity of the judicial process and prejudices Petitioner, who relied on the prior interpretation.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus clarifying that the statutory basis for Petitioner’s detention is 8 U.S.C. § 1226(a) and that 8 U.S.C. §

1 1225(b)(2)(A) does not apply to Petitioner;

- 2 c. Order that Petitioner shall not be transferred outside the Southern District of
3 California while this habeas petition is pending;
- 4
- 5 d. Issue an Order to Show Cause ordering Respondents to show cause why this
6 Petition should not be granted within three days;
- 7
- 8 e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner
9 or, in the alternative, provide Petitioner with a bond hearing pursuant to 8
10 U.S.C. § 1226(a) within seven days;
- 11
- 12 f. Declare that Petitioner's detention is unlawful;
- 13
- 14 g. Award Petitioner attorney's fees and costs under the Equal Access to Justice
15 Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis
16 justified under law; and
- 17
- 18 h. Grant any other and further relief that this Court deems just and proper.
19
20

21 DATED this 27th of November, 2025

22
23
24 s/ Martin O'Hara, Esq.
25 Martin O'Hara, Esq.
26 *Counsel for Petitioner*
27 CA State Bar No. 313973
28 5155 Rosecrans Ave., Ste. 250
Hawthorne, CA 90250
Tel: (213) 265-7348
Email: Martin@MartinOharaLaw.com

EXHIBIT B

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: 02/03/1996

Event No: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: PARDEEP SHARMA

currently residing at:

[REDACTED]

[REDACTED]

(Number, street, city, state and ZIP code)

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of INDIA and a citizen of INDIA;
3. You entered the United States at or near Lukeville, AZ, on or about December 3, 2022;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

1241 E DYER RD STE 200 SANTA ANA CA 92705, SANTA ANA IMMIGRATION COURT

(Complete Address of Immigration Court, including Room Number, if any)

on March 8, 2024 at 8:30 AM to show why you should not be removed from the United States based on the charge(s) set forth above.

(Date)

(Time)

[Handwritten Signature]

B D08039 BURDICK - EDDO

(Signature and Title of Issuing Officer)

Date: December 18, 2023

San Bernardino, CA

(City and State)

ECIR - 3 of 6

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.18. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/are, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1387.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

(Signature and Title of Immigration Officer)

Date:

Certificate of Service

This Notice To Appear was served on the respondent by me on December 18, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

- In person by certified mail, returned receipt # requested by regular mail
Attached is a credible fear worksheet.
Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

DANIEL HOWE (Signature and Title of Officer)

EOIR 4 of 6

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorn>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/oecl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.



For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name SHARMA, PARDEEP	File Number 	Date 12/18/2023
THE SERVICE ALLEGES THAT YOU: ----- Immigration and Nationality Act; and/or 6. You are an immigrant not in possession of a valid unexpired passport, or other suitable travel document, or document of identity and nationality. ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW: ----- 212(a) (6) (A) (i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. 212(a) (7) (A) (i) (I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.		
Signature  B DORRIS BURDICK	Title SDDO	

EOIR - 6 of 6

EXHIBIT C


DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

NOTICE TO EOIR: ALIEN ADDRESS

Date: 11/18/2025

To: Enter Name of BIA or Immigration Court I-830 CCC
Enter BIA or Immigration Court Three Letter Code@usdoj.gov CCC

From: Enter Name of ICE Office U.S. Immigration and Customs Enforcement
Enter Street Address of ICE Office ICE, ERO Concord, 1855 Gateway Blvd, STE 850
Enter City, State and Zip Code of ICE Office Concord, CA 94520

Respondent: Enter Respondent's Name SHARMA, Pardeep
Alien File No: Enter Respondent's Alien Number 

This is to notify you that this respondent is:

Currently incarcerated by federal, state or local authorities. A charging document has been served on the respondent and an Immigration Detainer-Notice of Action by the ICE (Form I-247) has been filed with the institution shown below. He/she is incarcerated at:
Enter Name of Institution where Respondent is being detained _____
Enter Street Address of Institution where Respondent is being detained _____
Enter City, State and Zip code of Institution where Respondent is being detained _____
Enter Respondent's Inmate Number _____
His/her anticipated release date is Enter Respondent's Anticipated Release Date. _____

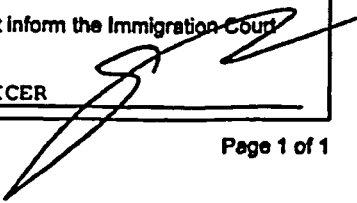
Detained by ICE on Enter Date Respondent was Detained by ICE at: _____
Enter Name of ICE Detention Facility where Respondent is being detained _____
Enter Street Address of ICE Detention Facility where Respondent is being detained _____
Enter City, State and Zip Code of ICE Detention Facility where Respondent is being detained _____

Detained by ICE and transferred on Enter Date Respondent was transferred to: 11/11/2025
Enter Name of ICE Detention Facility where Respondent has been transferred Imperial Region1 Detention Fac.
Enter Street Address of ICE Detention Facility where Respondent has been transferred 1572 Gateway Rd
Calexico, CA 92231
Enter City, State and Zip Code of ICE Detention Facility where Respondent has been transferred _____

Released from ICE custody on the following condition(s):
 Order of Supervision or Own Recognizance (Form I-220A)
 Bond in the amount of Enter Dollar Amount of Respondent's Bond
 Removed, Deported, or Excluded
 Other _____

Upon release from ICE custody, the respondent reported his/her address and telephone number would be:
Enter Respondent's Street Address _____
Enter Respondent's City, State and Zip Code _____
Enter Respondent's Telephone Number (including area code) _____

I hereby certify that the respondent was provided an EOIR-33 Form and notified that they must inform the Immigration Court of any further change of address.

ICE Official: Enter Your First, Last Name and Title ALEX PALACIOS - DEPORTATION OFFICER 

EOIR - 1 of 1

EXHIBIT D

**DECLARATION OF COUNSEL
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

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I, Martin O’Hara, declare under penalty of perjury as follows:

1. I am the attorney of record for Petitioner, Pardeep Sharma (aka Pardeep Singh), in the above-captioned habeas corpus proceeding. I am licensed to practice law in the State of California (SBN 313973) and admitted to practice before the United States District Court for the Southern District of California. I submit this declaration in support of the Petition for Writ of Habeas Corpus. The facts stated below are based on my personal knowledge, my communications with Petitioner, and my review of government records and documents produced by DHS and EOIR. If called upon to testify, I could and would do so competently.
2. I prepared and filed the Petition for Writ of Habeas Corpus on behalf of Petitioner. The petition recounts Petitioner’s detention at the Imperial Regional Detention Facility and challenges the government’s application of 8 U.S.C. § 1225(b)(2)(A) to Petitioner, whose detention properly falls under 8 U.S.C. § 1226(a).
3. Petitioner has continuously resided in the United States since approximately December 3, 2022, as reflected in the Form I-220A (“Order of Release on Recognizance”) issued at the time of his encounter with DHS. This document reflects DHS’s own determination that Petitioner was processed and released under 8 U.S.C. § 1226, not § 1225(b). A true and correct copy of the I-220A is attached as Exhibit A.
4. DHS thereafter initiated removal proceedings under 8 U.S.C. § 1229a by issuing a Notice to Appear (NTA) alleging that Petitioner “entered the United States without inspection, admission or parole,” which again confirms his classification under § 1226(a). A true and correct copy of the NTA is attached as Exhibit B.
5. On or about November 11, 2025, Petitioner was arrested by immigration agents in Riverside, California and transferred to the Imperial Regional Detention Facility. ICE served a Form I-830 (“Notice to EOIR: Alien Address”) documenting his detention and transfer. A true and correct copy of the I-830 is attached as Exhibit C.

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6. At the time of this arrest, Petitioner was already in non-detained removal proceedings before the Concord Immigration Court. After detention, his case was transferred to the Imperial Immigration Court. Because of the recent nationwide policy issued by ICE on July 8, 2025, and the Board of Immigration Appeals' September 5, 2025 decision in *Matter of Yajure Hurtado*, immigration judges no longer retain authority to consider bond requests for individuals in Petitioner's posture.
7. As a result of these policies, Petitioner has no access to an individualized bond hearing before EOIR, rendering any efforts to seek bond within the immigration court system futile. EOIR's acceptance of DHS's interpretation leaves Petitioner without an adequate remedy other than habeas corpus.
8. I have spoken with Petitioner while he has been detained. He reports that he fears prolonged detention and does not understand why DHS changed its position regarding the legal basis for his custody after previously issuing an I-220A recognizing his eligibility for release under § 1226(a).
9. Based on my review of the record and applicable law, I believe Petitioner's detention under § 1225(b)(2)(A) is unlawful and contrary to decades of statutory interpretation, DHS practice, and federal case law. As reflected throughout the petition, dozens of federal courts have rejected the government's new interpretation and confirmed that individuals in Petitioner's posture are properly detained under § 1226(a).
10. All exhibits attached to the Petition for Writ of Habeas Corpus are true and correct copies of the documents they purport to be. I obtained these documents from DHS, Petitioner's EOIR file, or directly from Petitioner, unless otherwise stated.
11. This declaration is submitted to provide relevant background and support Petitioner's claims for habeas relief, including his request for prompt adjudication under 28 U.S.C. § 2243.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

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Executed on this 27th day of November, 2025, at Hawthorne, California.



Martin O'Hara, Esq.
Attorney for Petitioner
5155 Rosecrans Ave., Ste. 250
Hawthorne, CA 90250
Tel: (213) 265-7348
Email: Martin@MartinOharalaw.com