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**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT COURT OF TEXAS**

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**RAJDEEP S. DHANOA**

*Petitioner,*

v.

**Case No.**

**MIGUEL VERGARA,**  
In his official capacity as the Field Office  
Director, ERO Harlingen Field Office;

**KRISTI NOEM,**  
In her official capacity as Secretary, U.S.  
Department of Homeland Security;

**TODD M. LYONS,**  
In his official capacity as Acting Director  
Of Immigration & Customs Enforcement;  
and,

**PAMELA BONDI,**  
In her official capacity as Attorney General,  
U.S. Department of Justice,

*Respondents.*

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

Petitioner, by and through counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, and alleges as follows:

### **INTRODUCTION**

1. This case concerns the unlawful, pre-charging, and constitutionally unauthorized detention of a noncitizen whom DHS admits entered the United States lawfully. Respondents collectively have not charged the Petitioner with removability and have not served a Notice to Appear AT ANY TIME before OR during the Petitioner's unlawful detention. Thus, Respondents purposefully have prevented Petitioner from obtaining bond through the appropriate channel by refusing to place him in removal proceedings.

2. At no given time was Petitioner identified as a danger to the community, a person of ill moral character, or a flight risk. Such determination is mandatory before indefinitely detaining a noncitizen. Furthermore, Respondents have no adduced evidence even remotely relating to a justification of the Petitioner's arrest.

3. Petitioner has no criminal history, has a pending asylum application (Form I-589) properly filed with USCIS, possesses a valid Employment Authorization Document (EAD), and held a valid commercial driver's license at the time he was stopped at a CBP interior checkpoint. He was nevertheless arrested, transferred to ICE custody, and remains detained at the Rio Grande Detention Center.

4. Petitioner is detained without any statutory authority, without any pending removal case, and without any individualized finding that his confinement is necessary for any purpose permitted by the Constitution.

5. This detention is ultra vires, arbitrary, and violates the Due Process Clause of the Fifth Amendment. DHS cannot keep a person incarcerated indefinitely while refusing to file charges, refusing to release him, and refusing to justify his detention.

6. Petitioner seeks immediate release, or in the alternative, a Court order compelling DHS to file a charging document and provide a constitutionally adequate custody determination where the burden rests on the Government, not the detainee.

### **JURISDICTION AND VENUE**

7. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody at the Rio Grande Processing Center, Laredo, TX, under the authority of the United States and challenges the legality of that custody.

8. Jurisdiction is also proper under 28 U.S.C. § 1331 (federal question), the Suspension Clause, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–02.

9. Venue lies in the Southern District of Texas, Laredo Division because Petitioner is confined at the Rio Grande Detention Center located in Webb County, Texas, within this District and Division.

10. This action arises under the Constitution of the United States, and the Immigration and Nationality Act (“INA”).

11. Federal Courts have subject matter jurisdiction under 28 U.S.C. § 2441(c)(1) and (c)(3) (habeas corpus) to determine whether people imprisoned in federal custody are held in violation of law. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001).


12. Jurisdiction is proper pursuant to 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (waiver of sovereign immunity); 28 U.S.C. § 1346 (original jurisdiction); Article I, § 9, clause

2 of the U.S. Constitution (Suspension Clause); the All Writs Act, 28 U.S.C. § 1651; and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

13. Further, the Court has jurisdiction to grant injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201—02, 1651, 2241, and the All Writs Act, 28 U.S.C. § 1651. Mr. Dhanoa’s detention constitutes a “severe restraint[] on his individual liberty” interest such that Mr. Singh is “subject to restraints not shared by public generally” and “in custody in violation of the . . . laws . . . of the United States.” *Spring v. Caldwell*, 692 F.2d 994 (5th Cir. 1982)

14. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness of their detention by DHS. *Jennings v. Rodriguez*, 583 U.S. 281, 292—95 (2018); *Denmore v. Kim*, 538 U.S. 510, 516—17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

#### PARTIES

15. Petitioner Dhanoa is a citizen and national of India who resided at 

 prior to his detention.

16. Respondent Miguel Vergara is the Field Office Director of the Enforcement and Removal Operations (“ERO”) office, Harlingen, TX. He is responsible for the functioning of, and carrying out ICE’s immigration detention operations across this judicial district. Respondent Vergara is a legal custodian of Mr. Dhanoa. He is sued in his official capacity.

17. Respondent Kristi Noem is named in her official capacity as the Secretary of DHS. In this capacity she is responsible for the administration of the immigration laws pursuant to Section 402 of the Homeland Security Act of 2002. 107 Pub. L. 296 (November 25, 2003); *see also* 8 U.S.C. § 1103(a); routinely transacts business in the District of New York; and is legally

responsible for Mr. Dhanoa's incarceration and removal. She is therefore a custodian of Mr. Dhanoa. Respondent Noem's office is located at DHS headquarters in Washington, DC, 20528.

18. Respondent Todd M. Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to detaining and removing certain noncitizens. Director Lyons is a legal custodian of Mr. Dhanoa and is sued in his official capacity.

19. Respondent Pamela Bondi is named in his official capacity as the Attorney General of the United States. She is responsible for the administration of the immigration laws as exercised by EOIR, pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of Texas and is legally responsible for administering Mr. Dhanoa's removal proceedings as well as the procedural standards used in those proceedings. She is therefore a legal custodian of Mr. Dhanoa. Respondent Bondi's office is at DHS of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

### **STATEMENT OF FACTS**

20. Petitioner entered the United States lawfully on a C1D visa. Department of Homeland Security ("DHS") does not dispute the lawfulness of his entry.

21. Petitioner filed a Form I-589 asylum application with USCIS, which accepted jurisdiction. Under 8 C.F.R. § 208.7, Petitioner is lawfully present while his asylum case is pending.

22. USCIS granted Petitioner a valid Employment Authorization Document (EAD). Petitioner also lawfully obtained a Commercial Driver License ("CDL") and was gainfully employed as a truck driver. Simultaneously, he is also self-employed.

23. In September 2025, while traveling within the United States, Petitioner passed through a routine CBP interior checkpoint at Laredo, TX. Despite having lawful identification, he was detained, questioned, and eventually transferred to ICE custody.

24. DHS has not served Petitioner with a Notice to Appear (NTA). No charging document has been filed with the Executive Office for Immigration Review. No removal proceedings exist.

25. Because there is no charging document, the Immigration Judge stated that he lacked jurisdiction and denied bond for Mr. Dhanoa. The IJ improperly relied on *Matter of A-W-*.

26. Because Petitioner is a registered asylum applicant with a pending application, he is not subject to expedited removal and not eligible for credible fear processing under 8 U.S.C. § 1225(b). The credible fear system exists only for individuals who have not yet filed an asylum application. DHS has acknowledged that Petitioner entered the United States lawfully and has not alleged that he is an “arriving alien” or an inadmissible applicant for admission.

27. Despite this, ICE has refused to (1) file a Notice to Appear, (2) initiate removal proceedings under 8 U.S.C. § 1229a, or (3) release Petitioner. ICE has also failed to refer Petitioner for a credible fear interview—a process that does not apply to asylum applicants who have already filed with USCIS. These omissions leave Petitioner in a state of unlawful “pre-charging detention” with no statutory basis and no way of requesting his release from this unlawful detention.

28. ICE cannot lawfully hold an asylum applicant while refusing to issue charges, refusing to begin expedited removal, and refusing to schedule any lawful procedure. Detention without any statutory removal framework is ultra vires and violates the INA and the Constitution.

29. Petitioner has no criminal arrests, no convictions, and no allegations of danger or security risk.

30. Petitioner has significant community ties, employment history, and a pending asylum claim filed in good faith.

31. Petitioner has now been detained for months with no charges, no statutory authority for his detention, and no timeline for DHS to initiate proceedings.

### **LEGAL STANDARDS**

32. Under the Fifth Amendment, civil immigration detention is permissible only if it is authorized by statute. *See Zadvydas v. Davis*, 533 U.S. 678 (2001) at 690 (“A statute permitting indefinite detention of an alien would raise a serious constitutional problem”); reasonably related to a legitimate governmental purpose. *See Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) (“[W]e have repeatedly held that courts may not rewrite clear statutory terms to suit their own sense of how the statute should operate.”); and supported by constitutionally adequate procedures. *Franco v. Holder*, 662 F.3d 393 (5th Cir. 2011) at 404—05 (“The Fifth Amendment’s Due Process Clause forbids the Government to deprive individuals of liberty without due process of law.”). Detention not tied to any statutory removal process is unconstitutional. *See id.* at 404 (“When the Government detains a person for the purpose of initiating removal proceedings, it must do so in a manner consistent with the Fifth Amendment.”)

### **CAUSE OF ACTION**

#### **COUNT I**

#### **Unlawful Detention in Violation of the Immigration and Nationality Act (INA)**

33. DHS lacks statutory authority to detain Petitioner because. Petitioner’s detention is ultra vires the INA and unlawful. Under INA, there exist two exclusive sections that allow DHS to implement detentions to noncitizens: INA § 1226(a) and INA § 1225(b).

34. INA § 1226(a) authorizes detention only “pending a decision on whether the alien is to be removed,” which requires that DHS initiate formal removal proceedings by serving and filing a Notice to Appear. Because DHS has not served or filed an NTA, no such proceedings exist, and § 1226(a) does not apply.

35. INA § 1225(b) applies only to individuals who are applicants for admission, unlawful entrants, or persons placed into expedited removal. DHS has expressly acknowledged that Petitioner entered lawfully, and DHS has not issued an expedited removal order or initiated credible fear proceedings. Petitioner also has a pending I-589 asylum application with USCIS, which removes him from § 1225(b).

36. No other detention statute applies. Petitioner is not a convict of a criminal ground or a criminal infraction that would allow DHS to indefinitely detain him. As a result, DHS is detaining Petitioner without statutory authority, rendering the detention ultra vires. Detention that is not tied to a removal process is unlawful and must end. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

## COUNT II

### **Violation of the Fifth Amendment Due Process Clause — Procedural Due Process**

37. Detaining Petitioner with no charges, no process, and no hearing violates the Fifth Amendment.

38. Even if a hearing were proper, the IJ applied the wrong legal standard by placing the burden on Petitioner under *Matter of A-W-*, a decision that does not apply outside § 1226(a) proceedings and violates due process when used to shift the burden to the detainee. See *Portillo v. ICE*, 2022 WL 2119990 (W.D. Tex.); *Franco*, 662 F.3d at 404.

### COUNT III

#### **Unconstitutional Indefinite Detention**

39. Continued detention disconnected from a removal process violates *Zadvydas* and *Jennings* because it is not “reasonably related” to removal or any legitimate immigration purpose.

40. With no NTA filed, Petitioner’s detention is indefinite, arbitrary, and unmoored from statutory purpose, rendering it unconstitutional. Here, DHS has provided Petitioner with no procedural safeguards whatsoever—no NTA, no removal proceedings, no credible fear screening, no custody review, and an unlawful bond denial rendered without jurisdiction. Petitioner’s detention therefore violates the core guarantees articulated in *Franco*.

### COUNT IV

#### **Habeas Relief Under 28 U.S.C. § 2241**

41. Petitioner is “in custody in violation of the Constitution or laws of the United States.” DHS’s failure to file charges and failure to provide a lawful custody determination renders ongoing confinement illegal.

#### **PRAYER FOR RELIEF**

Petitioner respectfully requests that this Court:

- i. Issue a writ of habeas corpus ordering Petitioner’s immediate release. OR, in the alternative:
- ii. Order DHS to file a charging document within 48 hours or release Petitioner.
- iii. Declare that the IJ’s bond denial is void for lack of jurisdiction.
- iv. If DHS files an NTA, order a new custody hearing within 7 days where DHS bears the burden of proving danger or flight risk by clear and convincing evidence wherein the IJ consider all less-restrictive alternatives to detention.

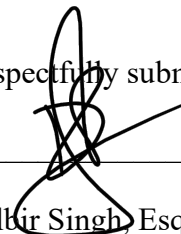
- v. Enjoin Respondents from expediting the Petitioner's removal from this jurisdiction to anywhere until the completion of this action.
- vi. Award reasonable attorney's fees and costs under the Equal Access to Justice Act, where applicable.
- vii. Grant any other relief the Court deems just and proper.

**CONCLUSION**

DHS cannot lawfully imprison a person whom it concedes entered legally, has no criminal history, possesses valid government documents, has a pending asylum claim, and against whom DHS refuses to initiate removal proceedings. Petitioner's detention is unlawful, unauthorized, and unconstitutional. Habeas relief is required.

Dated: December 1, 2025

Respectfully submitted,



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