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7 Attorney for Petitioner

8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10 )  
11 ) KOMALPREET KAUR )

12 )  
13 ) Petitioner )

14 ) v. )

15 )  
16 ) United States Department of )  
17 ) Homeland Security, KRISTI NOEM, )  
18 ) DHS Secretary; PAMELIA BONDI, )  
19 ) US Attorney General; )  
20 ) TODD LYONS, Acting Director, )  
21 ) ICE; SERIO ALBARRAN, )  
22 ) Field Office Director, ICE; )  
23 ) CHRISTOPHER CHESNUT, )  
24 ) Warden, California City Detention )  
25 ) Facility, )

26 ) Respondents. )

Case No.  
1:25-cv-01726-TLN-SCR  
AMENDED PETITION FOR  
WRIT OF HABEAS CORPUS

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1. Petitioner, Komalpreet Kaur, petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to remedy her unlawful detention by Respondents. This is an amended petition to include additional claims and to add the names of government officials being sued in their official capacity. FRCP§ 15(a) and (c).

Petitioner states as follows:

### INTRODUCTION

2. Petitioner, by and through undersigned counsel, hereby files this petition for writ of habeas corpus to compel her immediate release from the immigration jail where she has been held by the U.S. Department of Homeland Security (DHS) since being re-detained on October 6, 2025, without first being provided a hearing to determine whether her incarceration is justified.

3. Petitioner was first encountered by ICE a year ago, detained briefly, charged as entering the U.S. without inspection, and then released on her own recognizance. Respondent filed a timely I-589, application for asylum, with the Executive Office for Immigration Review and that application remains pending and awaiting a merits hearing. Dkt. 1 (I-589). At a recent ICE “check-in,” Petitioner was re-detained and was provided no reason for re-detention nor provided an opportunity to respond. She has no criminal history and is pregnant.

- 1 4. After arresting Petitioner, ICE did not set bond and Petitioner is unable to  
2 obtain review of her custody by an IJ, pursuant to the Board's decision in  
3 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). An immigration  
4 judge already declined to hold a bond hearing for Petitioner, citing the  
5 immigration court's supposed lack of jurisdiction pursuant to the BIA's  
6 decision.  
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9 5. DHS has taken the position that any noncitizen who entered without a visa is  
10 ineligible for a bond hearing. This is contrary to law and a drastic change from  
11 decades of precedent and procedure. Because of the government's extreme  
12 (and unlawful) position in violation of the Immigration and Nationality Act  
13 ("INA") and the U.S. constitution, Petitioner has no remedy to assert her  
14 liberty interest other than by means of this habeas petition.  
15

16  
17 **JURISDICTION**

- 18 6. This action arises under the Constitution of the United States and the  
19 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq and the  
20 Administrative Procedures Act.  
21  
22 7. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas  
23 corpus), 28 U.S.C. § 1331 (federal question), the Administrative Procedures  
24 Act, and Article I, § 9, cl. 2 of the United States Constitution (Suspension  
25 Clause).  
26

1 8. This court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241  
2 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs  
3 Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. §  
4 1252(e)(2).  
5

6 **VENUE**

7 9. Venue is proper because Petitioner is in Respondents' custody in an  
8 immigration detention facility in California City, California, which is within  
9 the jurisdiction of the Eastern District of California. Respondents are  
10 employees or officers of the United States, acting in their official capacity.  
11 There is no real property involved in this action. For these reasons, venue is  
12 proper before this court. 28 U.S.C. § 1391(e).  
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15 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

16 10. The court must grant the petition for writ of habeas corpus or issue an order to  
17 show cause (OSC) to the Respondents "forthwith," unless the petitioner is not  
18 entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the court must require  
19 Respondents to file a return "within three days unless for good cause additional  
20 time, not exceeding twenty days, is allowed." *Id.*  
21

22  
23 11. Courts have long recognized the significance of the habeas statute in protecting  
24 individuals from unlawful detention. The Great Writ has been referred to as  
25 "perhaps the most important writ known to the constitutional law of England,  
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1 affording as it does a swift and imperative remedy in all cases of illegal  
2 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

3 12. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is an  
4 immigration facility detained by Respondents.  
5

6 **PARTIES**

7 13. Petitioner Komalpreet Kaur is currently detained at the California City  
8 Detention Facility.  
9

10 14. Respondent Kristi Noem is the Secretary of the Department of Homeland  
11 Security (“DHS”) and is sued in her official capacity. The Secretary of  
12 Homeland Security is charged with the administration and enforcement of  
13 immigration laws. 8 U.S.C. § 1103(a).  
14

15 15. Respondent Pamela Bondi is the Attorney General of the United States and is  
16 sued in her official capacity as the head of the Department of Justice. The  
17 Attorney General is responsible for the fair administration of the laws of the  
18 United States.  
19

20 16. Respondent Todd Lyons is the Acting Director of U.S. Immigration and  
21 Customs Enforcement (ICE) and is sued in his official capacity. ICE is  
22 responsible for the detention of Petitioner.  
23

24 17. Sergio Albarran is the Field Office Director for U.S. Immigration and Customs  
25 Enforcement (ICE) Enforcement and Removal Operations in San Francisco,  
26

1 California, which covers the California City Correctional Facility, and is sued  
2 in his official capacity. In his official capacity, he is a legal custodian of  
3 Petitioner.  
4

5 18. Christopher Chestnut is the Warden of the California City Correctional Facility  
6 where Petitioner is being held and is sued in his official capacity. Respondent  
7 Chestnut oversees the day-to-day operations of the California City Detention  
8 Facility and acts at the direction of Respondents Noem, Bondi, and Lyons.  
9  
10 Chestnut is the custodian of Petitioner.

11 **STATEMENT OF FACTS**

12  
13 19. Petitioner is a 23-year-old native and citizen of India who is currently pregnant.  
14 She entered the United States without inspection on or about December 7,  
15 2024, and, after entering, was apprehended and detained by DHS. On  
16 December 19, 2024, DHS released Petitioner on her own recognizance and  
17 ordered her to appear at a future hearing. According to the form I-213 created  
18 by ICE upon this initial encounter, Petitioner was released due to  
19 “humanitarian reasons” and “lack of detention space.” Exhibit B. In the Notice  
20 to Appear she is charged with removability under 8 U.S.C. 1182 § (a)(6)(A)(i),  
21 and “an alien present in the United States without being admitted or paroled.”  
22 Exhibit B, Notice to Appear.  
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1 20. On or about February 10, 2025, Petitioner filed a form I-589, Application for  
2 Asylum and Withholding, with an immigration judge of the Executive Office  
3 of Immigration Review, and her case was calendared for a future date. Dkt. 1.  
4 That application remains pending.  
5

6 21. Kaur has no criminal record. On August 11, 2025, U.S. Citizenship and  
7 Immigration Services granted her an Employment Authorization Document  
8 (“work permit”) valid for five years. Dkt. 1, p. 103.  
9

10 22. On October 6, 2025, almost a year after releasing Kaur from custody, after  
11 issuing a work authorization document and after her asylum application was  
12 pending for a number of months and awaiting a final hearing on the merits,  
13 ICE arrested Petitioner. She was arrested when she appeared for a check-in at  
14 the San Jose, California ICE office.  
15

16 23. Petitioner is three months pregnant. Her immediate health and the immediate  
17 health of her baby are at serious risk due to the conditions at the California City  
18 Correctional Facility. Medical records submitted by Petitioner show that she  
19 lost weight during her incarceration. Weight loss in pregnancy is strongly  
20 associated with adverse fetal outcome, including risk of death. The medical  
21 records also show that she recently needed emergency medical care at a  
22 hospital due to abdominal pain, nausea and vomiting. Hospital tests revealed  
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1 elevated bilirubin, a liver condition that poses a serious risk to the fetus,  
2 including of fetal death.

3 24. Petitioner is malnourished. The temperature in the facility is frigid, causing  
4 Petitioner insomnia. Petitioner is experiencing regular nosebleeds. She  
5 describes the water in the facility as “tasting like bleach or detergent.” Ex. A,  
6 Declaration of Cara Jobson. Petitioner has indicated that she suffers from  
7 depression and has considered self-harm. Medical report submitted by  
8 Respondents under seal on 12/12/2025, page 112.

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11 25. ICE’s own policy states that ICE should not detain pregnant, postpartum, or  
12 nursing individuals except under exceptional circumstances.  
13

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15 **LEGAL FRAMEWORK**

16 **RESPONDENTS’ DETENTION OF PETITIONER IS UNLAWFUL**  
17 **UNDER THE STATUTE**

18 26. The Immigration and Nationality Act (INA) specifies three basic forms of  
19 detention for noncitizens in removal proceedings.

20 27. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-  
21 expedited removal proceedings before an immigration judge (IJ). See 8 U.S.C.  
22 § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the  
23 outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while  
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1 noncitizens who have been arrested, charged with, or convicted of certain  
2 crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

3 28. Second, the INA provides for mandatory detention of noncitizens subject to  
4 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals  
5 seeking admission referred to under § 1225(b)(2).  
6

7 29. Lastly, the Act also provides for detention of noncitizens who have been  
8 previously ordered removed, including individuals in withholding-only  
9 proceedings, see 8 U.S.C. § 1231(a)–(b).  
10

11 30. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).  
12

13 31. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of  
14 the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of  
15 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582  
16 to 3009–583, 3009–585.  
17

18 32. Following enactment of the IIRIRA, EOIR drafted new regulations explaining  
19 that, in general, people who entered the country without inspection were not  
20 considered detained under § 1225 and that they were instead detained under §  
21 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and*  
22 *Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62  
23 *Fed. Reg.* 10312, 10323 (Mar. 6, 1997).  
24  
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1 33. Thus, in the decades that followed, most people who entered without  
2 inspection—unless they were subject to some other detention authority—  
3 received bond hearings. That practice was consistent with many more decades  
4 of prior practice, in which noncitizens who were not deemed “arriving” were  
5 entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C.  
6 § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting  
7 that § 1226(a) simply “restates” the detention authority previously found at §  
8 1252(a)).  
9

11 34. Section 1226(a) was most recently amended earlier this year by the Laken  
12 Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025). The LRA amendments  
13 mandate detention for noncitizens charged as inadmissible under sections  
14 1182(a)(6)(A)(present in the U.S. without being admitted or paroled);  
15 1182(a)(6)(C)(the inadmissibility ground for misrepresentation), or  
16 1182(a)(7)(the admissibility ground for lacking valid documentation) *and* if the  
17 noncitizen has been arrested for, charged with, or convicted of certain crimes.  
18

19 *Id.*  
20

21  
22 35. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy  
23 that rejected well-established understanding of the statutory framework and  
24 reversed decades of practice. The new policy, entitled “Interim Guidance  
25 Regarding Detention Authority for Applicants for Admission,” claims that all  
26

1 persons who entered the United States without inspection shall now be subject  
2 to mandatory detention provision under § 1225(b)(2)(A). The policy applies  
3 regardless of when a person is apprehended and affects those who have resided  
4 in the United States for months, years, and even decades.  
5

6 36. On September 5, 2025, the BIA adopted this same position in a published  
7 decision, *Matter of Yajure Hurtado*, 29 I&N Dec 216 (BIA 2025). There, the  
8 Board held that all noncitizens who entered the United States without  
9 admission or parole are subject to detention under § 1225(b)(2)(A) and are  
10 ineligible for IJ bond hearings.  
11

12 37. Since Respondents adopted their new policies, dozens of federal courts have  
13 rejected their new interpretation of the INA's detention authorities. Courts have  
14 likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of  
15 the statute as ICE. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D.  
16 Wash. 2025).<sup>1</sup>  
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21 <sup>1</sup> See also, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7,  
22 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238  
23 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL  
24 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-  
25 DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25  
26 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-  
cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*,  
No. 5:25-cv-01789- ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v.*  
*Hyde*, No. 25-11631- BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25  
CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No.  
25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*,  
No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-

1 38. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because  
2 it defies the INA. The plain text of the statutory provisions demonstrates that §  
3 1226(a), not § 1225(b), applies to people like Petitioner.  
4

5 39. Section 1226(a) applies by default to all persons “pending a decision on  
6 whether the [noncitizen] is to be removed from the United States.” These  
7 removal hearings are held under § 1229a, which “decid[e] the inadmissibility  
8 or deportability of a[] [noncitizen].”  
9

10 40. The text of § 1226 also explicitly applies to people charged as being  
11 inadmissible, including those who entered without inspection. See 8 U.S.C. §  
12 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that,  
13 by default, such people are afforded a bond hearing under subsection (a).  
14

15 “Except as provided in subsection (c),” when a noncitizen is arrested under  
16  
17  
18

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19 cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-  
20 CV-3051 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-  
21 Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29,  
22 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal.  
23 Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL  
24 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL  
25 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL  
26 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL  
2531566, at \*29 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a)  
and not §1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025  
WL 2402271 at \*3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-  
JFB- RCC, 2025 WL 2374224 at \*2 (D. Neb. Aug. 14, 2025); *Cortez-Hernandez v. Noem*, 3:25-  
cv-03112-JES-DDL(S.D. Cal. November 21, 2025) (same).

1 Section 1226(a), the Attorney General may detain him or release him on bond  
2 or conditional parole. 8 U.S.C. § 1226(a)(1)–(2). Section 1226 therefore leaves  
3 no doubt that it applies to people who face charges of being inadmissible to the  
4 United States, including those who are present without admission or parole.  
5

6 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who  
7 recently entered the United States. The statute’s entire framework is premised  
8 on inspections at the border of people who are “seeking admission” to the  
9 United States. 8 U.S.C. § 1225(b)(2)(A).  
10

11 42. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply  
12 to people like Petitioner who are alleged to have entered the United States  
13 without admission or parole.  
14

15 43. Petitioner’s only relief for this statutory violation is through this habeas  
16 petition due to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and  
17 executive branch policy.  
18

19  
20 **RE-DETENTION WITHOUT CHANGE IN CIRCUMSTANCES**  
21 **VIOLATES DUE PROCESS AND THE INA**

22 44. Immigration detention is a form of civil confinement that “constitutes a  
23 significant deprivation of liberty that requires due process protection.”  
24 *Addington v. Texas*, 441 U.S. 418, 4253 (1979).  
25  
26

1 45. Once a determination to release an individual from custody is made, the release  
2 order may be revisited when the facts or circumstances warrant revocation or  
3 reconsideration. 8 U.S.C. § 1226(b). Without any notice or process or any  
4 change in facts of circumstances, ICE re-detained Petitioner at an ICE check-  
5 in. Petitioner had been at liberty, had filed for asylum, been granted a five-year  
6 work permit, and committed no crimes when she was re-detained.  
7

8  
9 46. Individuals have a liberty interest under the Due Process Clause of the Fifth  
10 Amendment in avoiding re-incarceration. *See Young v. Harper*, 520 U.S. 143,  
11 146-152 (1997) (holding that individuals placed in a pre-parole program  
12 created to reduce prison overcrowding have a protected liberty interest  
13 requiring pre-deprivation process). It is a violation of Petitioner's right to due  
14 process to re-detain her without any notice, process or change in  
15 circumstances.  
16

17  
18 **RE-DETENTION WITHOUT PROPER PROCESS VIOLATES THE**  
19 **STATUTE AND THE REGULATIONS**

20 47. Upon Petitioner's initial encounter with ICE, Petitioner was issued a form I-  
21 213 which indicated that she was being released for "humanitarian reasons."  
22 Exhibit B. This appears to be a release under 8 C.F.R. § 212.5(a), which  
23 permits an alien to be released either for humanitarian reasons or public  
24 benefit. The parole under 8 C.F.R. § 212.5(a) may be terminated upon notice to  
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1 the alien and “upon accomplishment of the purpose for which parole was  
2 authorized.” 8 C.F.R. § 212.5(e)(2)(i). No such showing has been made here.

3 48. Arrest pursuant to 8 USC §1226(a) provides that “upon ‘warrant issued’ an  
4 individual may be arrested and detained during a removal proceedings. When  
5 a noncitizen is detained by ICE, the proscribed procedure is that ICE issues an  
6 arrest warrant pursuant to 8 C.F.R. § 236.1(b), on a form I-200. In addition, a  
7 form I-286, Notice of Custody Determination, is to be issued to the individual  
8 by certain enumerated immigration officials. 8 C.F.R. § 236.1(g). It is unclear  
9 from the record available whether any of these procedures were properly  
10 followed.<sup>2</sup>

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12  
13  
14 **RESPONDENTS’ DETENTION OF PREGNANT INDIVIDUALS**  
15 **VIOLATES POLICY AND THE APA**

16 49. Respondents’ detention of Petitioner is in violation of its own policy and is  
17 arbitrary and capricious.

18  
19 50. Petitioner is three months pregnant. Respondents’ detention of Petitioner  
20 violates its own policy. See ICE, Directive: Identification and Monitoring of  
21 Pregnant, Postpartum, or Nursing Individuals (2021):

22 [23 https://www.ice.gov/directive-identification-and-monitoring-pregnant-](https://www.ice.gov/directive-identification-and-monitoring-pregnant-)

24  
25  
26 <sup>2</sup> Respondents have provided some documents issued by ICE from the administrative record, among which there was no form I-200 or form I-286.

1 postpartum-or-nursing-individuals (2021). That policy states, “[g]enerally,  
2 ICE should not detain, arrest, or take into custody for an administrative  
3 violation of the immigration laws known to be pregnant, postpartum, or  
4 nursing unless release is prohibited by law or exceptional circumstances exist”  
5 and that “ICE officers and agents should carefully weigh the decision to issue a  
6 detainer, arrest or take into custody for an administrative violation of the  
7 immigration laws an individual who is known to be pregnant, postpartum, or  
8 nursing.”<sup>3</sup> Detaining Petitioner in disregard of its own directive is arbitrary  
9 and capricious and a violation of the Administrative Procedures Act. This  
10 violation is exacerbated by Petitioner’s compromised medical condition and  
11 the poor conditions at California City.  
12  
13  
14

15  
16 **RESPONDENTS’ DETENTION OF PETITIONER VIOLATES**  
17 **SUBSTANTIVE DUE PROCESS**

18 51. “[S]ubstantive due process prevents the government from engaging in conduct  
19 that shocks the conscience or interferes with rights implicit in the concept of  
20 ordered liberty.” *United States v. Salerno*, 481 U.S. 739, 746 (1987).  
21

22 52. Respondent is pregnant, lost weight in custody, has elevated bilirubin levels,  
23 and has already required emergency treatment. Dkt. 1, page 14, 15, Emergency  
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<sup>3</sup> The regulations that permit parole under 8C.F.R. 212.(b)(2) also recognize pregnancy as a humanitarian factor and special circumstance for release from immigration detention.

1 Department Report. Weight loss in pregnancy is associated with adverse fetal  
2 outcome, including “low birth rate,” “baby’s risk for illness early on and for  
3 long-term health problems later. It also increases [baby’s] risk of physical and  
4 mental disabilities.”<sup>4</sup> Elevated bilirubin is associated with “adverse infant  
5 outcomes, including stillbirths, fetal malformations, neonatal deaths, and small  
6 for gestational age births.”<sup>5</sup> Medical records from detention also show that  
7  
8 Petitioner is depressed and has considered harming herself.  
9

10 53. The conditions in the California City Detention Facility are abysmal,  
11 particularly with regard to medical care, sanitation, nutrition, and temperature.<sup>6</sup>  
12  
13 In *Doe v. Chestnut*, 2025 WL 3240400, (2025), the court found a substantive  
14 due process violation in an immigration detention case in California City where  
15 the uncontested evidence described the facility as “dirty and unhygienic,”  
16 “covered in dust and grime,” lacking clean water, and failing to timely provide  
17 medication. Petitioner has not received sufficient food or clean water. The  
18 water she has received tastes like bleach or detergent. Ex. A.  
19  
20  
21

22  
23 <sup>4</sup> <https://healthy.kaiserpermanente.org/health-wellness/health-encyclopedia/he.pregnancy-healthy-weight-gain.abp4805>

24 <sup>5</sup> <https://pubmed.ncbi.nlm.nih.gov/27586034/>

25 <sup>6</sup> Sam Levin, “Hell on earth’: immigrants held in new California detention facility beg for help.”  
26 THE GUARDIAN. Sep. 27, 2025. See also, Rachel Uranga, “Why California’s newest detention facility faces federal lawsuit over medical neglect and ‘punitive’ unsanitary conditions.” L.A. TIMES, Nov. 13, 2025.

1 54. The evidence of record indicates that Petitioner is not receiving adequate  
2 medical care nor nutrition, putting her health and that of her baby at risk.

3 Given the easily available Alternatives to Detention available to Respondents,  
4 such as the reporting requirements that Petitioner was already complying with  
5 prior to her re-detention, her incarceration at California City while pregnant  
6 and medically compromised is a substantive due process violation.  
7

8  
9 55. If the Court orders Petitioner's release, it should also order Respondents to not  
10 fit her with an electronic monitor as it can interfere with emergency medical  
11 care for pregnant women. For example, elevated bilirubin is associated with  
12 preeclampsia which can cause significant swelling. Electronic monitoring  
13 devices can cut off circulation.  
14

15  
16 **RIGHT TO APPLY FOR ASYLUM**

17 56. Immigration detention should not be used as a punishment and should only be  
18 used when, under an individualized determination, a noncitizen is a flight risk  
19 because they are unlikely to appear in immigration court or a danger to the  
20 community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).  
21

22 57. Noncitizens in immigration proceedings are entitled to Due Process under the  
23 Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306  
24 (1993).  
25  
26

1 58. The Refugee Act of 1980, the cornerstone of the U.S. asylum system, provides  
2 a right to apply for asylum to individuals seeking safe haven in the United  
3 States. The purpose of the Refugee Act is to enforce the “historic policy of the  
4 United States to respond to the urgent needs of persons subject to persecution  
5 in their homelands.” Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94  
6 Stat. 102 (1980).  
7

8  
9 59. The “motivation for the enactment of the Refugee Act” was the United Nations  
10 Protocol Relating to the Status of Refugees, “to which the United States had  
11 been bound since 1968.” *INS v. Cardoza-Fonseca*, 480 U.S. 421, 424, 432-33  
12 (1987). The Refugee Act reflects a legislative purpose “to give ‘statutory  
13 meaning to our national commitment to human rights and humanitarian  
14 concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).  
15

16 60. The Refugee Act established the right to apply for asylum in the United States  
17 and defines the standards for granting asylum, as codified in the INA. 8 U.S.C.  
18 § 1101(a)(42)(A).  
19

20 61. Although a grant of asylum may be discretionary, the right to apply for asylum  
21 is not. The Refugee Act broadly affords a right to apply for asylum to any  
22 noncitizen “who is physically present in the United States or who arrives in the  
23 United States[.]” 8 U.S.C. § 1158(a)(1).  
24  
25  
26

1 62. Re-detaining Petitioner during the course of her immigration proceeding and  
2 with asylum pending interferes with her right to apply for asylum as it impedes  
3 her right to counsel and her ability to gather and present evidence and  
4 witnesses in her case.  
5

6 **CLAIMS FOR RELIEF**

7 **COUNT ONE**

8 **Violation of the INA**

9  
10 63. Petitioner incorporates by reference the allegations of fact set forth in the  
11 preceding paragraphs.  
12

13 64. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to  
14 all noncitizens residing in the United States who are subject to the grounds of  
15 inadmissibility. As relevant here, it does not apply to those who entered the  
16 country prior to being apprehended and placed in removal proceedings by  
17 Respondents. Such noncitizens are detained under § 1226(a), unless they are  
18 subject to § 1225(b)(1), § 1226(c), or § 1231.  
19  
20

21 65. The application of § 1225(b)(2) to Petitioner unlawfully mandates her  
22 continued detention and violates the INA.  
23

24 //  
25 //  
26 //

**COUNT TWO**

**Violation of Fifth Amendment Right to Procedural Due Process**

1  
2  
3 66. Petitioner incorporates by reference the allegations of fact set forth in the  
4 preceding paragraphs.  
5

6 67. The Due Process Clause of the Fifth Amendment to the U.S. Constitution  
7 prohibits the federal government from depriving any person of “life, liberty, or  
8 property, without due process of law.” Due process protects “all ‘persons’  
9 within the United States, including [non-citizens], whether their presence here  
10 is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693;  
11 accord *Flores*, 507 U.S. at 306.  
12

13  
14 68. Due process requires that government action be rational and non-arbitrary. See  
15 *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).  
16

17 69. While the government has discretion to detain individuals under 8 U.S.C. §  
18 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this  
19 discretion is not “unlimited” and must comport with constitutional due process.  
20 See *Zadvydas*, 533 U.S. at 698.  
21

22 70. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary  
23 manner and not based on a rational and individualized determination of  
24 whether she is a safety or flight risk, in violation of due process. Because no  
25 individualized custody revocation has been made and no circumstances have  
26

1 changed to make Petitioner a flight risk or a danger to the community,  
2 Respondents' revocation of Petitioner's release violates her right to procedural  
3 due process.  
4

5 **COUNT THREE**

6 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Abuse of**  
7 **Discretion**

8 **Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)**  
9

10 71. Petitioner incorporates by reference the allegations of fact set forth in the  
11 preceding paragraphs.  
12

13 72. Under the APA, a court shall “hold unlawful and set aside agency action” that  
14 is an abuse of discretion. 5 U.S.C. § 706(2)(A).  
15

16 73. The “touchstone of ‘arbitrary and capricious’ review” is “reasoned decision  
17 making.” *Altera Corp. & Subsidiaries v. Comm’r of Internal Revenue*, 926  
18 F.3d 1061, 1080 (9<sup>th</sup> Cir. 2019)(quoting *Motor Vehicles Mfrs. Ass’n v. State*  
19 *Farm Mut. Auto. Ins. Co*, 463 U.S. 29, 52 (1983)).  
20

21 74. To survive an APA challenge, the agency must articulate “a satisfactory  
22 explanation” for its action, “including a rational connection between the facts  
23 found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569  
24 (2019) (citation omitted).  
25  
26

1 75. By detaining the Petitioner categorically, Respondents have further abused  
2 their discretion because there have been no changes to her facts or  
3 circumstances since the agency made its initial custody determinations that  
4 support the revocation of her release from custody.  
5

6 76. Respondents have already considered Petitioner's facts and circumstances and  
7 determined that she was not a flight risk or danger to the community. There  
8 have been no changes to the facts that justify this revocation of her release on  
9 her own recognizance. The fact that Petitioner has already been granted release  
10 by Respondents under the same facts and circumstances shows that  
11 Respondents do not consider her, on an individualized basis, to be a danger to  
12 the community or a flight risk. This was done in violation of the statute and  
13 regulations.  
14  
15  
16

#### 17 **COUNT FOUR**

#### 18 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in** 19 **Accordance with Law and in Excess of Statutory Authority Violation of 8** 20 **U.S.C. § 1226(a), 8 C.F.R. § 212.5(a)**

21 77. Petitioner incorporates by reference the allegations of fact set forth in the  
22 preceding paragraphs.  
23

24 78. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not  
25 in accordance with law;” “contrary to constitutional right;” “in excess of  
26

1 statutory jurisdiction, authority, or limitations;” or “without observance of  
2 procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).

3 79. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may  
4 revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a  
5 noncitizen under the initial warrant. In implementing this statutory provision, 8  
6 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody  
7 may only be carried out in the “discretion of the district director, acting district  
8 director, deputy district director, assistant district director for investigations,  
9 assistant district director for detention and deportation, or officer in charge  
10 (except foreign).”  
11  
12  
13

14 80. It is a well-established administrative principle that “agency action taken  
15 without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v.*  
16 *Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v.*  
17 *NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); see also *Hooks v. Kitsap Tenant*  
18 *Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency  
19 action because it was taken by unauthorized official).  
20  
21

22 81. On information and belief, Respondents have revoked or are revoking  
23 Petitioner’s prior custody determination as a result of a categorical policy  
24 prepared by and implemented by unidentified government officials in  
25  
26

1 Washington, not through the individual exercise of discretion required by law  
2 or by the individuals enumerated by regulation to do so.

3 82. Because Petitioner's revocation of release from custody has been made or will  
4 be categorically directed by government officials not authorized by law to  
5 make this determination, Respondents' detention of Petitioner is not in  
6 accordance with law and in excess of statutory authority.  
7

8  
9 **COUNT FIVE**

10 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in**  
11 **Accordance with Law and in Excess of Statutory Authority Violation of 8**  
12 **U.S.C. § 1226(a)-(c), 8 C.F.R. § 236.1(b); 8 C.F.R. § 236.1(g).**

13 83. Petitioner incorporates by reference the allegations of fact set forth in the  
14 preceding paragraphs.

15 84. Arrest pursuant to 8 USC §1226(a) provides that “upon ‘warrant issued’ an  
16 individual may be arrested and detained during a removal proceedings. When  
17 a noncitizen is detained by ICE, the proscribed procedure is that ICE issues an  
18 arrest warrant pursuant to 8 C.F.R. § 236.1(b), on a form I-200. In addition, a  
19 form I-286, Notice of Custody Determination, is to be issued to the individual  
20 by certain enumerated immigration officials. 8 C.F.R. § 236.1(g). It is unclear  
21 from the record available whether any of these procedures were properly  
22 followed.  
23  
24  
25  
26

**COUNT SIX**

**Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Abuse of Discretion**

**Violation of ICE Policy**

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

86. Respondents' detention of Petitioner is in violation of its own policy and is arbitrary and capricious.

87. Petitioner is three months pregnant. Respondents' detention of Petitioner violates its own policy.

**COUNT SEVEN**

**Violation of Fifth Amendment Guarantee of Substantive Due Process**

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

89. Respondents' detention of Petitioner violates her right to substantive due process under the Fifth Amendment of the U.S. Constitution.

90. Given her pregnancy, medical conditions, and conditions of detention, Petitioner is being detained unconstitutionally and in violation of substantive due process.

**PRAYER FOR RELIEF**

Petitioner requests that this court:

- (1) Accept jurisdiction over this action;
- (2) Issue the writ of habeas corpus and order Respondents to show cause, within three days of Petitioner filing this petition, why the relief she seeks should not be granted; and set a hearing on this matter within five days of Respondents' return on the order to show cause (see 28 U.S.C. § 2243);
- (3) Order Petitioner's immediate release;
- (4) Order Respondents not to fit Petitioner with an ankle monitor or other electronic monitoring device;
- (5) Grant any other relief that the court may deem just and proper.

Date: December 12, 2025

Respectfully submitted,

/s/ Cara Jobson

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Cara Jobson  
Wiley & Jobson  
Attorney for Petitioner