

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

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| Zille HUSSNAIN, | § | |
| | § | |
| <i>Petitioner,</i> | § | |
| | § | |
| v. | § | |
| | § | |
| Kristi NOEM, in her official capacity | § | |
| as Secretary of the U.S. Department of | § | Case No. |
| Homeland Security; | § | |
| | § | |
| Pamela BONDI, in her official capacity | § | |
| as U.S. Attorney General; | § | |
| | § | |
| Todd LYONS, in his official capacity as | § | |
| Acting Director of Immigration and | § | |
| Customs Enforcement; | § | |
| | § | |
| Miguel VERGARA, in his official | § | |
| capacity as Acting Director of the ICE | § | |
| Harlingen Field Office; and | § | |
| | § | |
| Francisco VENEGAS, in his official | § | |
| capacity as Warden of El Valle | § | |
| Detention Facility, | § | |
| | § | |
| <i>Respondents.</i> | § | |

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW Petitioner, Zille Hussnain, by and through the undersigned counsel, and files this petition for a writ of habeas corpus to order the government provide him with a bond hearing before an Immigration Judge (“IJ”).¹

¹ On October 9, 2025, Philip Armstrong filed a petition for a writ of habeas corpus with this Court as next friend of Petitioners. The same day, this Court issued an order notifying Petitioners that they must file an amended, signed petition if they

INTRODUCTION

1. Zille Hussnain (“Petitioner”) is a 27-year-old Pakistani national who entered the United States approximately two years ago. Mr. Hussnain is fleeing persecution in Pakistan based on his religious beliefs. He has no criminal history in the United States or any other country.

2. On or about May 2023, Petitioner entered the United States without inspection through Lukeville, Arizona, and was taken into custody by U.S. Customs and Border Protection (“CBP”). He was placed in removal proceedings and subsequently released on his own recognizance. On or about October 2023, Petitioner filed his application for asylum and protection under the Convention Against Torture (“CAT”). On or about October 2025, Petitioner was arrested at an CBP checkpoint and transported to El Valle Detention Facility in Raymondville, Texas.

3. Respondents are now detaining Petitioner without a bond hearing. Respondents claim that Petitioner is an “applicant for admission” who is subject to mandatory detention under 8 U.S.C. § 1252(b)(2)(A).

4. Detaining Petitioner without bond violates his Fifth Amendment right to substantive due process. Petitioner’s substantial connections to the United States make him a “person” to whom the Fifth Amendment applies. *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (non-citizens “receive constitutional protections when they have come within the territory of the U.S. and developed substantial connections with the country”). Petitioner has a liberty interest in

wished to pursue habeas relief. *See Order, Armstrong v. Warden, et al.*, No. 25-cv-203-H (W.D. Tex. Oct. 9, 2025) (ECF No. 4).

freedom from detention. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects”) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Indefinite detention without bond of non-citizens with no criminal record, over 2 years of residency, and substantial connections to the country serves no valid purpose and violates the Due Process Clause.

5. Civil detention that lacks a “sufficiently strong special justification” violates the Fifth Amendment. *Zadvydas*, 533 U.S. at 690. In *Demore v. Kim*, 538 U.S. 510 (2003), the Court upheld 8 U.S.C. § 1226(c)’s mandatory detention without bond as applied to “deportable criminal [non-citizens]” because it serves to prevent criminals from “skipping their hearings and remaining at large” where they may recidivate. *Id.* at 528. There is no justification for detaining Petitioner indefinitely without affording him the opportunity to show he is not a danger to the community or a flight risk.

6. The fact that Petitioner is statutorily considered “applicants for admission” does not—*cannot*—mean he can be detained indefinitely without access to a bond hearing. The Due Process Clause applies to non-citizens with substantial connections to the U.S. regardless of any “entry fiction” which purports to treat applicants for admission as the equivalent of extraterritorial non-citizens. As the Court held in *Zadvydas*, “[O]nce a [non-citizen] enters the country, his legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful,

unlawful, temporary, or permanent.” 533 U.S. at 693.

7. This Circuit and courts across the country have agreed with this basic constitutional principle. See *Martinez-Aguero v. Gonzalez*, 459 F.3d 618, 623 (5th Cir. 2006) (holding that the entry fiction does not bar a non-citizen resident of Mexico from challenging six hour detention by CBP under the Due Process Clause); *Lynch v. Cannatella*, 810 F.2d 1363, 1373 (5th Cir. 1987) (“The ‘entry fiction’ that excludable [non-citizens] are to be treated as if detained at the border despite their physical presence in the United States determines the [non-citizen’s] rights with regard to immigration and deportation proceedings. It does not limit the right of excludable [non-citizens] detained within United States territory to humane treatment”); *Rosales-Garcia v. Holland*, 322 F.3d 386, 410 (6th Cir. 2003) (“If excludable [non-citizens] were not protected by even the substantive component of constitutional due process, as the government appears to argue, we do not see why the United States government could not torture or summarily execute them”), *cert. denied*, 539 U.S. 941 (2003); *Am.-Arab Anti-Discrimination Comm. v. Ashcroft*, 272 F. Supp. 650, 668 (E.D. Mich. 2003) (“While we respect the historical tradition of the ‘entry fiction,’ we do not believe it applies to deprive [non-citizens] living in the United States of their status as ‘persons’ for the purposes of constitutional due process”); *Cancino-Castellar v. McAleenan*, 388 F. Supp. 3d 1218, 1246 (S.D. Cal. 2019) (“Although the entry fiction warrants dismissal of Gonzalez’s procedural due process claim, the fiction does not similarly foreclose Gonzalez’s substantive due process claim.”).

8. Petitioner possesses Fifth Amendment substantive due process rights to be free from unjustified detention. He does not, through the instant petition, ask this Court to release him; he asks merely for the opportunity to present evidence to an IJ showing they are neither flight risks nor dangers to the community.

JURISDICTION & VENUE

9. This action arises under 28 U.S.C. § 2241, U.S. Const., Art. I, § 9, Cl. 2 (the Suspension Clause), and the Fifth Amendment to the United States Constitution.

10. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Art. 1, § 9, Cl. 2 of the United States Constitution (the Suspension Clause). This Court retains subject matter jurisdiction over Petitioner's claims because he is presently detained in this District. *See Order, Armstrong v. Warden, et al.*, No. 25-cv-203-H (W.D. Tex. Oct. 9, 2025) (ECF No. 4).

11. This Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

12. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because Petitioner is detained at El Valle Detention Facility in Raymondville, within the Southern District of Texas.

13. Nothing in the Immigration and Nationality Act ("INA") deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), 1252(f)(1), or 1226(e).

14. Congress has preserved judicial review of challenges to prolonged

immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018) (holding that 8 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to prolonged immigration detention). Section 1252(f)(1) does not repeal this Court’s authority to grant the relief Petitioner seeks because § 1252(f) “does not extend to individual cases.” *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). If any of those provisions did bar the relief Petitioners seek, they would violate the Suspension Clause.

15. Petitioners have exhausted all administrative remedies to the extent feasible. “[T]his court has concluded that when a petitioner’s due process claim does not assert a procedural error correctable by the BIA, it is not subject to an exhaustion requirement.” *Lopez de Jesus v. INS*, 312 F.3d 155, 162 n.47 (5th Cir. 2002). Exhaustion is also excused when delay means hardship, *Shalala v. Illinois Council*, 529 U.S. 1, 13 (2000), and here delay means months of unlawful detention.²

PARTIES

16. **Petitioner Zille Hussnain** is a 27-year-old citizen of Pakistan and a Shia Muslim who has been physically present in the United States since May 2023. He has a pending application for asylum and protection under the Convention against Torture based on the persecution he faced in Pakistan on account of his religious beliefs. At the time of his most recent detention, Mr. Hussnain was residing in Davis,

² This petition does not challenge the Notice to Appear. In any event, bond appeals before the BIA, on average, take six months to complete. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025). Exhaustion would not effectively afford Petitioners the relief they seek, given that a removal determination would likely come before the BIA’s determination of whether they are entitled to a bond hearing.

California.

17. **Respondent Kristi Noem** is named in her official capacity as the Secretary of the Department of Homeland Security (“DHS”). In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove Petitioner; and as such is a custodian of Petitioner.

18. **Respondent Pamela Bondi** is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g), and as such is a custodian of Petitioner.

19. **Respondent Todd Lyons** is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). As the senior official performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws and is legally responsible for pursuing any effort to remove Petitioner and to confine him pending removal. As such, he is a custodian of Petitioner.

20. **Respondent Miguel Vergara** is named in his official capacity as Acting Director of the ICE Harlingen Field Office in Harlingen, Texas. In this capacity, he is responsible for the execution of immigration confinement and the institution of removal proceedings within South Texas, in which Petitioner is confined.

21. **Respondent Francisco Venegas** is named in his official capacity

as the Warden of El Valle Detention Facility. In this capacity, he oversees the daily administration of the detention center in which Petitioner is in custody. As such, he is the immediate custodian of Petitioner.

FACTUAL ALLEGATIONS

I. The Statutory Framework for Immigration Detention

22. Detention authority for those who have not yet been issued final removal orders is divided between two sections of the INA, 8 U.S.C. §§ 1225 and 1226. The Supreme Court recently analyzed the interplay between §§ 1225 and 1226 in *Jennings v. Rodriguez*. The first sentence of the Court’s decision distinguishes between decisions made at the border and those made internally:

Every day, immigration officials must determine whether to admit or remove the many [non-citizens] who have arrived at an official “port of entry” (*e.g.*, an international airport or border crossing) or who have been apprehended trying to enter the country at an unauthorized location. Immigration officials must also determine on a daily basis whether there are grounds for removing any of the [non-citizens] who are already present inside the country.

583 U.S. at 285.

23. The Court subsequently explained, “In sum, U.S. immigration law authorizes the Government to detain certain [non-citizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It *also* authorizes the Government to detain certain [non-citizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Id.* at 289. (emphasis added). The Court noted that § 1225(b), the provision at issue in the instant habeas petition, “applies primarily to [non-citizens] seeking entry into the United States.” *Id.* at 297.

24. The Court also explained that § 1226 “applies to [non-citizens] already present in the United States” and “creates a default rule for those [non-citizens] by permitting – but not requiring – the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those [non-citizens] on bond, ‘except as provided in subsection (c) of this section.’” *Id.* at 303. “Federal regulations provide that [non-citizens] detained under § 1226(a) receive bond hearings at the outset of detention.” *Id.* at 306.

25. Section 1225(a)(1), *inter alia*, defines “applicants for admission” as non-citizens “present in the United States who ha[ve] not been admitted[.]” Relevant here, § 1225(b)(2)(A) states that “in the case of a[non-citizen] who is an applicant for admission, if the examining immigration officer determines that a[non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [non-citizen] shall be detained for a proceeding under section 1229a of this title.” Section 1229a enumerates the procedures for standard, non-expedited removal proceedings.

II. Petitioner’s substantial connections to the United States

26. Petitioner has substantial connections to his adopted home country such that they are a part of “the people” to whom the protections of the Constitution apply. He has resided in the United States for two years, during which time he has developed close professional and personal connections to his adopted home country.

27. Petitioner is a professional truck driver who provides a crucial service to the country’s infrastructure, ensuring the transport of essential goods and

supplies. Through his work, he has become a reliable and respected member of his local community. Mr. Hussnain contributes to the well-being of the broader community by supporting critical supply chains that benefit residents and businesses alike.

CAUSES OF ACTION

Count I: Fifth Amendment Substantive Due Process

28 U.S. § 2241; U.S. Const. Art. I, § 9, cl. 2; amend. V

28. Petitioner realleges and incorporates by reference each and every allegation contained above.

29. The Due Process Clause of the Fifth Amendment provides that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V.

30. Substantive due process “forbids the government to infringe certain ‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest.” *Reno v. Flores*, 507 U.S. 292, 301–02 (1993). “Substantive due process analysis must begin with a careful description of the asserted right.” *Id.* at 302.

31. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Detention for non-criminal purposes is only allowed “in narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotations and citations omitted). With respect to immigration detention, the

Supreme Court has recognized two special justifications: preventing flight risk and preventing danger to the community. *See id.*

32. The substantive component of the Due Process Clause applies to Petitioners because they have developed substantial connections with the United States. *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (non-citizens “receive constitutional protections when they have come within the territory of the U.S. and developed substantial connections with the country”).

33. In *Verdugo-Urquidez*, the Supreme Court stressed two factors to test whether a non-citizen has established “substantial connections” sufficient to be considered part of “the people” to whom the protections of the Bill of Rights apply: (1) whether the non-citizen is in the U.S. voluntarily, and whether he or she has “accepted some societal obligations.” 494 U.S. at 260.

34. In applying this test, various circuit and district courts have determined that individuals with more tenuous connections to the United States than Petitioners have “substantial connections” sufficient to trigger constitutional protections. *See Martinez-Aguero*, 459 F.3d at 625 (non-citizen and resident of Mexico who entered U.S. only to visit relative and procure social security check satisfied test for Fourth Amendment purposes, relying on *Verdugo-Urquidez* language requiring that non-citizen had “accepted some societal obligations”); *United States v. Meza-Rodriguez*, 798 F.3d 664, 670-71 (7th Cir. 2015) (holding that non-citizen *unlawfully* in the U.S. satisfied test because of long residence, sporadic work experience, and relationships with U.S. family and friends); *Ibrahim v. Dep’t of Homeland Sec.*, 669

F.3d 983, 996-97 (9th Cir. 2012) (holding that non-citizen pursuing her Ph.D. in the United States for four years had established significant voluntary connection with the United States such that she could invoke the First and Fifth Amendments); *Haitian Ctrs. Council*, 823 F. Supp. 1028, 1042 (E.D.N.Y. 1993) (holding that two-year confinement at U.S. facility in Guantánamo Bay, Cuba, established substantial connection to the United States to give rise to due process rights).

35. Here, Petitioner has accepted a significant level of societal obligation through his professional contributions as a truck driver, providing essential services that support the country's infrastructure and benefit the broader community.

36. The Fifth Circuit has held that even a non-resident non-citizen can have sufficient ties to be protected by the Fifth Amendment. *See Martinez-Aguero*, 459 F.3d at 625. If courts have determined that even non-U.S. residents can establish substantial connections, then Petitioner certainly can.

37. Because the Fifth Amendment applies to Petitioner, his detention without bond is unconstitutional. There is no valid justification for denying Petitioner access to a bond hearing, where he bears the burden to establish that he is not a danger to the community and does not pose a flight risk.

38. Furthermore, Petitioner's substantial connections to the United States mean the Suspension Clause applies to them as well. In *Boumediene v. Bush*, the Supreme Court struck down the Military Commissions Act of 2006 because it stripped federal courts of jurisdiction to hear habeas petitions from detainees without providing "adequate substitute procedures for habeas corpus." 533 U.S. 723, 772

(2008). Here, § 1252(b)(2)(A), as applied to Petitioner, deprives him of any procedures whatsoever for seeking release. As such, the application of § 1225(b)(2)(A) violates the Suspension Clause.

39. Petitioner is therefore constitutionally entitled to a bond hearing before an IJ.

PRAYER FOR RELIEF

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

- i. Assume jurisdiction over this matter;
- ii. Order Respondents to show cause why a writ of habeas corpus should not be granted;
- iii. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
- iv. Grant a writ of habeas corpus ordering Respondents to immediately conduct a bonding hearing for Petitioner;
- v. Declare that Petitioner's detention without bond violates the Fifth Amendment;
- vi. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- vii. Grant such further relief as this Court deems just and proper.

Dated: December 5, 2025

Respectfully Submitted,

/s/ Miguel A. Taboada

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the factual statements in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 5th day of December 2025.

/s/ Miguel A. Taboada

Miguel A. Taboada

Attorney for Petitioner