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8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 AMIT SHARMA,

11 Petitioner,

12 vs.

13 MINGA WOFFORD, Mesa Verde ICE
14 Processing Center Facility Administrator

15 Respondent.

Case No.: _____

PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 U.S.C. 2241;
MEMORANDUM OF POINTS AND
AUTHORITIES; EXHIBITS A-D

16 Petitioner Amit Sharma, through undersigned counsel, hereby files a Petition for Writ of
17 Habeas Corpus under 28 U.S.C. 2241 and Memorandum of Points and Authorities in support of
18 Petitioner's request for a bond hearing.

19 DATED: December 9, 2025

Respectfully submitted,

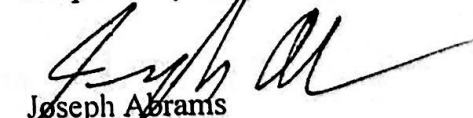
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21 Joseph Abrams
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MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Petitioner, a native and citizen of India, has been detained by Immigration and Customs Enforcement (“ICE”) since October 7, 2025 without receiving a constitutionally-adequate bond hearing. This continued civil detention, absent any determination that Petitioner presents a danger to the community or is a flight risk, violates the Due Process Clause of the Fifth Amendment.

The Ninth Circuit has repeatedly held that continued immigration detention under the circumstances of Petitioner’s case requires a bond hearing at which the government bears the burden to justify continued confinement. Accordingly, Petitioner submits this memorandum in support of the petition and respectfully requests that the Court grant Petitioner’s request and order Respondent to provide Petitioner with an individualized, constitutionally-compliant bond hearing within 14 days.

II.

LEGAL FRAMEWORK

A. Jurisdiction and Venue

This Court has jurisdiction under 28 U.S.C. 2241 because Petitioner “is in custody in violation of the Constitution or laws or treaties of the United States” and challenges the legality of his continued federal confinement. 28 U.S.C. 2241(c)(3).

Habeas jurisdiction remains available for challenges to immigration detention, including claims asserting the absence of a constitutionally-adequate bond hearing or prolonged detention. *See Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2002).

Proper venue in this matter is the Eastern District of California where Petitioner is confined. *Rumsfeld v. Padilla*, 542 U.S. 426 (2004) (holding that habeas corpus jurisdiction is limited to the district in which the detainee is confined).

B. Continued Civil Immigration Detention Without a Bond Hearing Violates Due Process

The Fifth Amendment prohibits depriving a person of liberty without due process of law. Because immigration detention is civil rather than punitive, it must be reasonably related to its narrow purposes of protecting the community and preventing flight. Zadvydas at 690. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” Singh v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2010). Civil detention violates due process outside of “certain special and narrow nonpunitive circumstances.” Rodriguez v. Marin, 909 F.3d 252, 257 (9th Cir. 2018). The Due Process Clause foresees eligibility for bail as part of “due process.” Jennings v. Rodriguez, 583 U.S. 281, 328 (2018).

C. The Ninth Circuit Requires Bond Hearings in Cases of Civil Immigration Detention

United States Code, Title 8, Section 1236(a) gives the Attorney General *discretionary* authority to detain an alien “pending a decision on whether the alien is to be removed from the United States.” Casas-Castrillon v. Department of Homeland Security, 535 F.3d 942, 944 (9th Cir. 2008) (emphasis added).¹ The government may not detain an alien for a prolonged period without providing an individualized determination as to the necessity of their detention. *Id.* at 949. Even where the alien’s detention is permitted by statute, the alien nonetheless has the right to contest before a neutral decision maker whether the government’s purported interest is actually served by detention in their case. *Id.* There is a difference between detention being authorized and being necessary as to any particular person. *Id.* In sum, “the government may not detain [an alien] such as [petitioner] for a prolonged period without providing him a neutral forum in which to contest the necessity of his continued detention. *Id.*”

¹ In Casas, the petitioner sought review of a judgment from the district court denying his petition for a writ of habeas corpus under 28 U.S.C. § 2241, which challenged his detention under 8 U.S.C. 1226(a) while awaiting review of his removal order. The Ninth Circuit reversed and remanded with instructions to grant the writ.

1 Section 1226(a), unlike § 1226(c), provides authority for the Attorney General to conduct
2 a bond hearing and release the alien on bond or detain him if necessary to secure his presence at
3 removal proceedings. *Id.* at 951, *see also* 18 U.S.C. § 1226(a)(2). Because the prolonged
4 detention of an alien without an individualized determination of their dangerousness or flight
5 risk would be "constitutionally doubtful," § 1226(a) must be construed as requiring the
6 Attorney General to provide the alien with a bond hearing. Casas at 951. In other words, an
7 alien is *entitled to release* on bond *unless* the "government establishes that he is a danger to the
8 community or a flight risk." (emphasis added). *Id.*²

9 **D. Procedural Requirements for Bond Hearings**

10 The burden of establishing whether detention is justified falls on the government. Singh
11 v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2010). Given the substantial liberty interests at stake
12 in Casas bond hearings, the government must prove by clear and convincing evidence that
13 continued detention is justified based on danger to the community or flight risk posed by the
14 alien. *Id.* at 1200, 1203. For detained aliens who face years of detention before resolution of
15 their immigration cases, the individual interest at stake is without doubt "particularly
16 important" and therefore a heightened standard of proof is warranted. *Id.* at 1204. The
17 individual's interests are "of such weight and gravity that due process requires the state to
18 justify confinement by proof more substantial than a mere preponderance of the evidence." *Id.*
19 Further, the immigration court must make a contemporaneous record of the hearing in the form
20 of either a written transcript or audio recording. *Id.* at 1200, 1207.

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27 ² The Ninth Circuit previously held aliens detained under the mandatory detention statute 8 U.S.C. §
28 1226(c) are similarly entitled to a bond hearing granted bail unless the government establishes that the alien is a
danger to the community or a flight risk. Tijani v. Willis, 430 F.3d 1241, 1242 (9th Cir. 2005); *See also* Diouf v.
Napolitano, 634 F.3d 1081, 1082 (9th Cir. 2011) (reaffirming § 1226(c) detainees facing prolonged detention the
right to a bond hearing).

III.

STATEMENT OF FACTS

A. Petitioner's Entry, Arrest, and Detention

On August 30, 2023, Petitioner entered the United States near Otay Mesa, California. Petitioner entered without having been admitted or paroled after inspection and was arrested by U.S. Border Patrol agents upon his entry. Exhibit A. The entry was Petitioner's first and only entry into the United States.

On October 31, 2023, Petitioner applied for asylum and withholding of removal. Petitioner's asylum claim was based on political opinion and Convention Against Torture ("CAT"). Exhibit B.

On November 6, 2023, Petitioner was found removable from the United States pursuant to Section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"). Exhibit C.

On October 7, 2025, Petitioner was arrested and detained by ICE. He was initially held at an ICE processing center in Adelanto, California. Petitioner was subsequently transferred and is presently being detained at the Mesa Verde ICE Processing Center in Bakersfield, California. Exhibit D.

Petitioner is presently being held under 8 U.S.C. 1226(a) (apprehension and detention of aliens).³ Petitioner has not been provided a bond hearing and there has been no indication from the government that he will be afforded a hearing within a reasonable period of time.

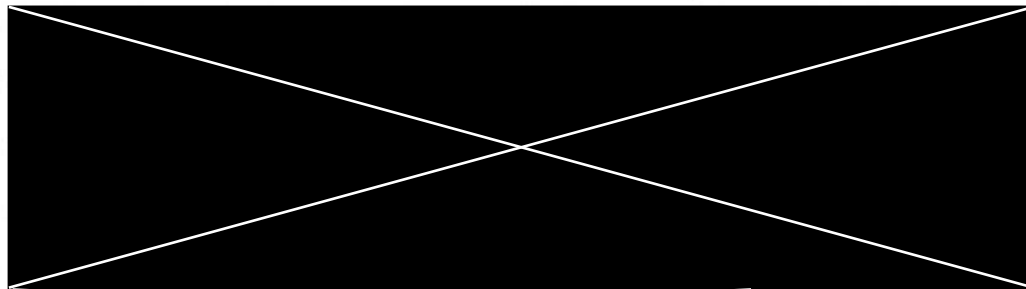
B. Petitioner's Background and Present Circumstances

Petitioner, 31, was born on [REDACTED] 1994, in [REDACTED] India. Petitioner resided in India from his birth until 2022, when he fled the country to escape political persecution, torture, and potential death. Petitioner is single with no children. His parents and

³ Because Petitioner's removal proceedings are not final, and mandatory detention is not applicable under 8 U.S.C. § 1226(c), which requires mandatory detention of criminal aliens, the presumptive detention statute in this matter is § 1226(a) under which detention is discretionary and individualized.

sibling continue to reside in India. Prior to his arrest, Petitioner resided and worked in Yuba City, California.

On October 31, 2023, Petitioner applied for asylum on the basis of political opinion and CAT. Exhibit D. In his application, Petitioner states-



If I go back to India
I fear that this will repeat again and I may loose [sic] my life.

Petitioner also affirmed in his application that he has no prior criminal history and his only prior arrest was when he was arrested by immigration authorities upon his entry into the United States.

IV.

ARGUMENT

A. Petitioner Is Entitled to a Prompt and Constitutionally-Adequate Bond Hearing

Petitioner is a non-criminal asylum seeker being detained at the discretion of the government under 8 U.S.C. 1226(a). His continued detention is a plain violation of due process. *See infra Singh*, 638 F.3d (9th Cir. 2010); *Jennings*, 583 U.S. (2018). Further, the Petitioner has not been afforded a bond hearing and there is no indication that he will be provided one without an order from this Court, which has proper habeas jurisdiction in this matter. *See infra* 28 U.S.C. 2241; *Demore*, 538 U.S. (2003); *Zadvydas*, 533 U.S. (2002). The remedy sought by the Petitioner, a constitutionally-adequate bond hearing, is precisely the relief authorized by the Ninth Circuit. *See infra Casas*, 535 F.3d (9th Cir. 2008). There is no discernable reason relating to danger or flight risk for Petitioner's continued detention, which is approaching several months in length.

Petitioner was initially detained by immigration officials but was then released pending removal proceedings after it was determined that Petitioner was neither a danger to the community or a flight risk. Since then, Petitioner has lived with his family in Yuba City, California, gained lawful employment, sought relief in his immigration case, and maintained a clean criminal record. Petitioner complied with all terms and conditions of his release. Then, on October 7, 2025, without warning or explanation, ICE agents re-detained Petitioner when he appeared for a scheduled check-in office visit.

Petitioner has always acted in good faith since entering the United States. He promptly surrendered to immigration authorities and applied for asylum through proper channels. Petitioner has appeared at all required hearings and office appointments. He has continued to work and contribute to his community as a law-abiding member. Petitioner has no criminal history or any record of violent behavior. Finally, Petitioner's asylum application on the basis of political persecution is meritorious and therefore his removal to India is not reasonably foreseeable. As such, Petitioner seeks immediate release from custody.

In sum, Petitioner has a protected liberty interest in his release. Petitioner's prior release created a reasonable expectation that he would be allowed to retain his liberty so long as he was not a danger to the community or a flight risk. Petitioner's abrupt and unannounced re-detention without any apparent lawful basis is inconsistent with fundamental principles of liberty and justice. The Court must therefore exercise its jurisdiction and authority and order that Petitioner be afforded a bond hearing to determine whether he is a danger to the community or a flight risk and whether his continued detention is justified.

Any bond hearing ordered by this Court must comply with procedural requirements dictated by the Ninth Circuit to protect Petitioner's due process rights. These include that the burden of establishing whether detention is justified falls on the government. *See supra Singh*, 638 F.3d (9th Cir. 2010). Specifically, the government must prove by clear and convincing evidence that continued detention is justified because Petitioner poses a danger to the

1 community or that Petitioner is a flight risk. Additionally, the immigration court must make a
2 contemporaneous record of Petitioner's hearing in the form of either a written transcript or
3 audio recording. *Id.*

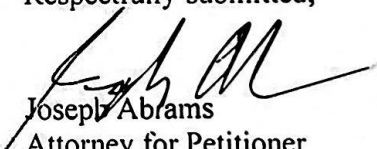
4 V.

5 **CONCLUSION**

6 As detailed in this memorandum, the Ninth Circuit has repeatedly held that continued
7 immigration detention under the circumstances of Petitioner's case requires a bond hearing at
8 which the government bears the burden to justify continued confinement. Accordingly,
9 Petitioner respectfully requests that the Court grant Petitioner's Writ of Habeas Corpus; order
10 Respondent to provide Petitioner with an individualized, constitutionally-compliant bond
11 hearing within 14 days; require that the government bear the burden of proof, consistent with
12 Singh; and order that the hearing be recorded.

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15 DATED: December 9, 2025

Respectfully submitted,

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17 Joseph Abrams
18 Attorney for Petitioner
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