

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION**

JAIMIN PATEL

Petitioner,

v.

Brian S ACUNA, Acting Field Office Director
of Enforcement and Removal Operations, New
Orleans Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND SECURITY;
Pamela BONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW; Keith DEVILLE,
Warden of Winn Correctional Center,

Respondents.

Case No.
1:26-CV-00057

JUDGE DAVID C JOSEPH

**APPLICATION FOR ISSUANCE OF AN ORDER TO SHOW
CAUSE**

1. Pursuant to 28 U.S.C. § 2243 ("Section 2243"), Petitioner JAIMIN PATEL respectfully requests that this Court "forthwith" issue an order directing Respondents to show cause, within three days or, alternatively, no more than twenty-one days, why his Petition for Writ of Habeas Corpus (the "Petition") should not be granted. As detailed below, Respondents cannot establish that the Petition should not be granted, and cannot show good cause for any extended time for the writ to return and for Respondents to respond.

Background

2. As detailed in his Petition for Writ of Habeas Corpus (ECF No. 1), Mr. Patel is a native and citizen of the India who fled persecution due to his political opinion. He entered the United States in June 2022, and immediately sought asylum, withholding of removal, and relief under the Convention Against Torture. He was currently in proceedings asking for asylum when, during a recent ICE check in, he was detained and sent to Louisiana.

3. In the months since, Petitioner has remained in ICE custody. ICE has refused to release him. Petitioner remains detained at Winn Correctional Center in Winn Parish, Louisiana.

4. Mr. Patel is not a flight risk, has no known criminal record, and is in no way a danger to national security or the community more generally.

5. His detention is not justified under the Constitution or the Immigration and Nationality Act (INA). He therefore seeks an order from this Court declaring his continued and prolonged detention unlawful and ordering Respondents to release him forthwith from their custody.

6. Petitioner has filed a Petition for Writ of Habeas Corpus on the grounds that his detention violates the Immigration and Nationality Act as well as his substantive and procedural due process rights under the Fifth Amendment on several grounds. *See* ECF No. 1.

7. As detailed herein and in the Petition, Petitioner will be successful in obtaining the relief sought in the Petition. The Court should set a limited briefing schedule because each day Petitioner remains unlawfully detained is a further violation of his Due Process Rights.

Respondent's Continued Detention is a Violation of Petitioner's Constitutional Rights

8. *First*, Respondents violated Mr. Patel's statutory rights by improperly detaining him under 8 U.S.C. § 1225(b)(2), the mandatory detention scheme, which "applies primarily to [noncitizens] seeking entry into the United States." *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). As courts in many districts have repeatedly held, the proper statute governing the detention of someone like Mr. Patel, who was already present in the United States at the time of arrest and had been for the past couple of years, is 8 U.S.C. § 1226(a), a discretionary regime with the opportunity for release. *See, e.g., Pineda Parada v. Rice*, No. 25-cv-1660, 2025 WL 3146250, at *2-3 (W.D. La. Nov. 4, 2025); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025). Accordingly, Mr. Patel's detention under the mandatory regime, without a bond hearing or any individualized pre-detention assessment, is unlawful and warrants his release.

9. *Second*, Respondents violated Mr. Patel's procedural due process rights under the Fifth Amendment by detaining him without a bond hearing and any individualized assessment of her flight risk and danger to the community. *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828, at *12 (W.D. Tex. Sept. 22, 2025). The Due Process Clause affords noncitizens due process of the law, preventing the government from depriving any person, including a noncitizen, of "life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. The government cannot abridge a person's liberty without providing "adequate procedural protections." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Arresting and imprisoning a noncitizen with no individualized determination of their flight risk or danger to the community establishes a cognizable liberty interest. *See, e.g., Lopez-Arevelo*, 2025 WL 2691828, at *11-12.

10. DHS's failure to provide the required individualized assessment to Mr. Patel is a violation of Patel's procedural due process rights. Indeed, had DHS meaningfully and properly evaluated Patel's circumstances, they would have easily determined that he is not a flight risk. In over three years of residing in the United States, Mr. Patel has attended all ICE check ins and filed for asylum timely.

11. Additionally, expedited consideration of the Petition is necessary because the Department of Homeland Security has previously determined that the detention statute that applies to Patel is section 1226, and he was *already released* under Section 1226. Mr. Patel was previously released under order of release on recognizance under section 236 according to his I 220a. Courts regularly grant immediate release as a remedy in such a situation. *See, e.g., Kelly v. Almodovar*, No. 25-CV-6448, 2025 WL 2381591, at *1, *4 (S.D.N.Y. Aug. 15, 2025) (ordering immediate release based on violation of petitioner's due process rights where he was re-arrested without notice, opportunity to respond, or showing of changed circumstances); *Valdez v. Joyce*, No. 25-CV-4627, 2025 WL 1707737, at *1, *4 (S.D.N.Y. June 18, 2025).

12. *Third*, because Mr. Patel is neither a flight risk nor a danger to his community, his detention violates his Substantive Due Process rights. Substantive Due Process rights extend to noncitizens within the United States, and protects against deprivation of certain fundamental rights implicit in liberty, regardless of the process afforded by the government. *Reno v. Flores*, 507 U.S. 292, 301-02 (1993). There are only two very limited regulatory purposes of civil immigration detention: preventing an individual from fleeing, and protecting the community from a dangerous individual. Neither of these apply to Mr. Patel. He has no criminal record and has built a substantial community in the United States.

13. Mr. Patel procedural and substantive due process rights are further violated with each day that he is unlawfully detained. Because it is clear that Respondents have no basis to detain Mr.

Patel and that he will ultimately be successful in the relief sought in the Petition, the Court should order an expedited schedule to bring about Mr. Patel's required release as soon as possible.

The Court Should Order Expedited Briefing and Hearing on this Petition

14. Section 2243 governs the response time required for writ of habeas corpus petitions. Under Section 2243, “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” Section 2243 further provides that the writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.” Finally, Section 2243 mandates that a court must hold a hearing on the writ or order to show cause “not more than five days after the return” unless for good cause additional time is allowed. Here, as explained in detail above, Respondents cannot show good cause for (a) why the writ should not be granted, (b) why it shall not be returned within three days (or on another very limited schedule), or (c) why the Court should not hold a hearing within five days after the return.

15. In the event the Court does not set a three-day return period, the Court should use its discretion pursuant to Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts (“Rule 4”) to set a limited extended briefing schedule. See Rule 4, Rules Governing Section 2254 Cases (requiring a judge to order Respondent “to file an answer, motion, or other response within a fixed time”). While Rule 4 does not define the fixed response period, Petitioner respectfully requests that this Court exercise its discretion under those rules to require a response within, at most, twenty-one (21) days. See *Hernandez v. White*, No. 20-CV-1680, 2020 WL 7647548, at *2 (W.D. La. Dec. 23, 2020) (considering petitioners’ “strong claims on the merits” in finding that “[p]etitioners’ request for expedited consideration can and should be a counterbalance”).

16. Judges in this district have previously ordered a response to Section 2241 immigrant habeas petitions within 21-30 days. *See, e.g.,* Ex. 1-4 (*Avendano Lopez v. Garcia*, 25-CV-01776, at *3 (W.D. La. Nov. 20, 2025) (ordering Respondents to respond to habeas petition within 21 days); *Robles Rodriguez v. Lyons*, No. 25-CV-1926, 2025 WL 3553742, at *1 (W.D. La. Dec. 8, 2025) (noting prior order setting 21-day return date); *Pineda Parada v. Rice*, 25-cv-1660 2025 WL 3146250, at *1 (W.D. La. Nov. 4, 2025) (ordering response within 30 days). Respondents cannot show good cause for any extension of time beyond the twenty-one days allowed by Courts in this district.

17. A response within 21 days is sufficient here because the Petition presents straightforward legal questions concerning statutory interpretation and constitutional analysis. Indeed, the record is unambiguous: the constitutionally permissible time period for effectuating Petitioner's removal has come and gone, and Respondents have taken no apparent steps toward doing so. If Respondents *had* taken such steps and Petitioner's removal was reasonably foreseeable, evidence of such action would be readily available now.

18. Further, allowing Respondents extended time to respond is inappropriate because Petitioner faces continuing irreparable harm due to the unconstitutional deprivation of her liberty. *Pineda Parada*, 2025 WL 3146250, at *3 (“[U]nconstitutional deprivation of liberty, even on a temporary basis constitutes irreparable harm.”); *Kostak v. Trump*, No. 25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025)(same).

19. Thus in the event this Court denies a three-day return of the Petition under Section 2243, Petitioner requests that the Court order Respondents to respond to the Petition no more than 21 days under Section 2241; provide Respondent an opportunity to file a reply within seven (7) days after Respondents file the response; and, if necessary, set any hearing to occur within five (5) days after briefing concludes.

Dated: January 27, 2026

s/David Rozas
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CERTIFICATE OF SERVICE

I, David J. Rozas, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent by mail to those indicated as non-registered participants on January 27, 2026.

/s/ David J. Rozas
David J. Rozas