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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

Vijaykumar Govindbhai Patel

Petitioner,

Case No.

GEORGE STERLING, Deputy Managing Director,
Atlanta Field Office, Immigration and Customs Enforcement
And Removal Operations (“ICE/ERO”); **TODD LYONS**,
Acting Director of Immigration and Customs Enforcement
(“ICE”); U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT; **KRISTI NOEM**, Secretary of the
Department of Homeland Security (“DHS”); U.S.
DEPARTMENT OF HOMELAND SECURITY; **PAMELA
BONDI**, Attorney General of the United States;
Warden, Folkston ICE Processing Center, United States
Attorney.

**PETITION FOR WRIT
HABEAS CORPUS**

Respondents,

Petitioner, Vijaykumar Govindbhai Patel (hereinafter “the Petitioner” files Petition for Habeas Corpus and Complaint for Declaratory and Injunctive Relief, under 28 U.S.C. §§2241, (habeas corpus) 1331 (federal question), with the Administrative Procedure Act, 5 U.S.C. §702 et seq; 28 U.S.C. §2201 (Declaratory Judgment Act).

I. INTRODUCTION

Petitioner Vijaykumar Govindbhai Patel (“Petitioner”), by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus to review the lawfulness of his current civil immigration detention by Respondents since August 30, 2025. Petitioner is detained despite having previously been released by ICE on an Order of Supervision on or about

November 14, 2023, having complied with all reporting requirements, and having no individualized determination that he poses a flight risk or danger to the community. His continued detention is unlawful and unconstitutional.

II. JURISDICTION AND VENUE

1. This action arises under the constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. §1101 et. seq.
2. This court has subject matter jurisdiction under 28 U.S.C. §§2241 (habeas corpus), U.S.C. §1331 (federal question), and Article I, §9, cl. 2 of the United States Constitution (Suspension Clause).
3. This court may grant relief under the habeas corpus statutes, 28 U.S.C. §2241 et. seq., the Declaratory Judgement Act, 28 U.S.C. §2201 et. seq., the All-Writs Act, 28 U.S.C. §1651, and the Immigration and Nationality Act, 8 U.S.C. §1252(e)(2).

III. VENUE

4. Venue is proper because Petitioner is in Respondents custody at the Folkston ICE Processing Center, Folkston, Georgia. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' custody. 28 U.S.C. §1391(e).

IV. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

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

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

7. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested and detained by Respondents.

V. THE PARTIES

8. Petitioner is a citizen of India. Petitioner is present within the state of Georgia as of the time of the filing of this petition.

9. Respondent George Sterling, Deputy Managing Director, Atlanta ICE Field Office. The Atlanta Field Office is responsible for local custody decisions relating to non-citizens charges with being removable from the United States, including the arrest, detention, and custody status of non-citizens. Respondent Sterling is a legal custodian of the Petitioner.

10. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs and Enforcement, and he has authority over the actions of respondent Drew Bostock and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

11. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

12. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

13. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

14. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.

15. Respondent Warden of the Folkston ICE Processing Center in Folkston, Georgia, where Petitioner is currently detained. As Warden, Respondent is the local official having day-to-day custody over Petitioner and is a proper Respondent in a habeas action. Respondent is sued in his official capacity.

16. This action is commenced against all Respondents in their official capacities.

VI. LEGAL FRAMEWORK

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

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

19. The Immigration and Nationality Act (INA) establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).

20. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.

29. Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441

U.S. 418, 4253 (1979).

30. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to people or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

31. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

32. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual’s release when the facts and circumstances warrant it.

33. Revocation and return to custody are authorized only based on individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

34. Once DHS affirmatively exercises discretion to release a noncitizen on supervision, it may not later rely on a categorical or fictional “arriving alien” classification to justify mandatory detention without an individualized custody determination.

35. In *Bautista v. Santa Cruz*, (5:25-cv-01873) the court rejected the government's attempt to rely on categorical statutory classifications, including § 1225(b)(1), to foreclose individualized custody review and habeas relief, holding that such detention raises serious due process concerns.

36. Where immigration courts lack jurisdiction to conduct custody hearings, habeas review is required to prevent unconstitutional detention.

VII. FACTUAL BACKGROUND

34. Petitioner entered the United States on November 12, 2023, near San Luis, Arizona, together with his wife and minor son, and affirmatively surrendered himself to immigration authorities upon entry rather than attempting to evade inspection or apprehension.

35. On November 14, 2023, following his entry and processing, Immigration and Customs Enforcement ("ICE") exercised its discretion to release Petitioner on an Order of Supervision based on a prior 2012 removal order, and Petitioner thereafter complied fully and consistently with all reporting and supervision requirements imposed by ICE.

36. Petitioner subsequently filed a defensive application for asylum, withholding of removal, and protection under the Convention Against Torture, seeking protection from removal under United States law, and his wife and minor son filed related protection-based applications arising from the same procedural posture.

37. Despite Petitioner's full compliance with the conditions of his release and the absence of any intervening violations or adverse conduct, ICE arrested Petitioner from his residence and placed him in detention at the Effingham County Jail without conducting any individualized custody determination or assessment.

38. An Immigration Judge denied Petitioner's request for a custody redetermination solely on jurisdictional grounds pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and

expressly declined to evaluate the merits of custody, including any assessment of danger to the community or risk of flight.

VIII. NOTICE OF SUPPLEMENTARY AUTHORITY

39. Petitioner respectfully notifies the Court of a dispositive legal development. On December 18, 2025, the U.S. District Court for the Central District of California entered Final Judgment in the nationwide class action *Maldonado Bautista v. Santacruz*, No.5:2025 cv 01873.

40. The final judgment in *Maldonado Bautista* is critical to the instant petition for three reasons:

1. Finality and Preclusion: The Court rejected the Government's argument that the class certification was merely interlocutory. It entered Final Judgment on Counts I-III, certifying the class and declaring the policy unlawful. As a class member, Petitioner's rights are now adjudicated, and the Government is collaterally estopped from relitigating their detention status.
2. Futility and Exhaustion: The Court entered Final Judgment specifically because it found "troubling" evidence that the Department of Justice issued a memorandum instructing Immigration Judges to disregard the federal court's prior orders and "hold the position that Yajure-Hurtado remains good law." This judicial finding confirms that administrative exhaustion is futile, as the agency has prejudged the issue in bad faith.
3. Yajure-Hurtado is "No Longer Tenable": The Court explicitly held that "the core holding of Yajure-Hurtado cannot be squared with the [Court's] Order... Yajure-Hurtado is no longer controlling; the legal conclusion underlying the decision is no longer tenable."

41. Petitioner requests that this Court take judicial notice of this Final Judgment and grant the Writ of Habeas Corpus to enforce these established rights against the local custodian.

IX. CLAIMS FOR RELIEF

COUNT ONE: SUBSTANTIVE DUE PROCESS VIOLATION

42. Petitioner realleges and incorporates by reference paragraphs 1 through 38 above.

43. Petitioner's continued detention violates his rights to substantive due process through a deprivation of the core liberty interest in freedom from bodily restraint. He has been detained for over three months.
44. The Due Process Clause of the Fifth Amendment requires that the deprivation of Petitioner's liberty be narrowly tailored to serve a compelling government interest. While Respondents might have an interest in detaining Petitioner in order to effectuate removal, that interest does not justify the indefinite detention of Petitioner, since it is not significantly likely that she will be removed in the reasonably foreseeable future. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), court recognized that ICE may continue to detain aliens only for a period reasonably necessary to secure the alien's removal.
45. Petitioner's continued detention violates his rights under the Due Process Clause of the Fifth Amendment to the United States Constitution, which protects noncitizens, including those subject to civil immigration detention, from arbitrary and indefinite deprivations of liberty.
46. Freedom from physical detention is a core liberty interest protected by the Due Process Clause. Civil detention, while permissible in limited immigration contexts, must be reasonable in duration and directly tied to a legitimate and compelling government interest.
47. Once removal is not reasonably foreseeable, continued detention becomes arbitrary and capricious, and is therefore unconstitutional. The Court interpreted 8 U.S.C. § 1231(a)(6) to limit post-removal-order detention to a presumptively reasonable period of six months. Beyond that, the government must demonstrate that removal is significantly likely to occur in the reasonably foreseeable future.

48. Therefore, Petitioner's continued detention violates the substantive due process protections of the Fifth Amendment, and this Court should grant the writ and order his immediate release, or such other relief as may be just and proper.

COUNT TWO: PROCEDURAL DUE PROCESS VIOLATION

49. Petitioner realleges and incorporates by reference paragraphs 1 through 39 above.

50. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. Petitioner has a strong interest in avoiding prolonged and indefinite immigration detention without meaningful review. Yet, since being taken into custody, has been deprived of a timely and meaningful opportunity to challenge his detention.

51. Petitioner has been in immigration detention since **August 30, 2025**, and remain detained without having received a prompt, individualized hearing at which the government bears the burden of justifying continued detention. As the length of detention increases, the constitutional justification for detention diminishes, and due process demands heightened procedural protections. Prolonged detention without meaningful review becomes punitive rather than administrative, in violation of the Fifth Amendment. Petitioner has complied with his immigration requirements. Respondent has no history of absconding. On the contrary he has significant ties to the United States - consistent residence, immediate family, a reliable sponsor, and so forth all of which demonstrate that he will appear for his future court proceedings. Moreover, Respondent's has applied for asylum.

52. Petitioner has a substantial liberty interest in avoiding prolonged and potentially indefinite detention. That interest is especially strong where, as here, detention has continued for months without a bond hearing or any other mechanism allowing Petitioner to meaningfully contest

whether continued confinement is necessary to serve the government's interests. Since being taken into custody, Petitioner has been deprived of a timely and meaningful opportunity to challenge his detention. He has not received an individualized determination assessing whether he poses a flight risk or a danger to the community, nor has the government been required to justify his continued detention by clear and convincing evidence. The absence of such procedural safeguards violates fundamental principles of due process.

53. There is likewise no evidence that Petitioner poses any danger to the community. He has no criminal history and has not engaged in conduct, suggesting that continued detention is necessary to protect public safety. Absent such a showing, detention cannot be justified under due process principles. In balancing the private interest affected, the risk of erroneous deprivation of liberty, and the government's asserted interests, due process plainly requires more than the automatic, prolonged detention imposed here. Without a meaningful hearing and without requiring the government to meet its burden, Petitioner's detention violates the Fifth Amendment.

54. Accordingly, Petitioner's continued detention since August 30, 2025, without a timely and meaningful opportunity to challenge the necessity of that detention, constitutes a violation of procedural due process. Habeas relief is therefore warranted to remedy this ongoing constitutional injury, including an order requiring an immediate bond hearing or Petitioner's release under appropriate conditions.

COUNT THREE: EXHAUSTION OF ADMINISTRATIVE REMEDIES

55. This Court has jurisdiction to review habeas petitions filed by immigration detainees who assert that they are "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). Since exhaustion, as the government recognizes, is not required by statute in this context, its exhaustion argument is measured against the "more

permissive” common-law, rather than statutory, exhaustion standard, which ““cedes discretion to a [federal] court to decline the exercise of jurisdiction.”” *Brito v. Garland*, 22 F.4th 240, 255-56 (1st Cir. 2021) (quoting *Anversa v. Partners Healthcare Sys., Inc.*, 835 F.3d 167, 174 (1st Cir. 2016)); see ECF 7, at 6. While the exhaustion doctrine often ““serves the twin purposes of protecting administrative agency authority and promoting judicial efficiency,”” there are ““circumstances in which the interests of the individual weigh heavily against requiring administrative exhaustion.”” *Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74, 77 (1st Cir. 1997) (quoting *McCarthy v. Madigan*, 503 U.S. 140, 145-46 (1992)). As relevant here, “a court may consider relaxing the [exhaustion requirement] when unreasonable or indefinite delay threatens unduly to prejudice the subsequent bringing of a judicial action.” *Id.* “And, relatedly, if the situation is such that ‘a particular plaintiff may suffer irreparable harm if unable to secure immediate judicial consideration of his claim,’ exhaustion may be excused even though ‘the administrative decision making schedule is otherwise reasonable and definite.’” *Id.* (quoting *McCarthy*, 503 U.S. at 147). Irreparable harm may be established where a petitioner will be incarcerated or detained pending the exhaustion of administrative remedies. See *Brito*, 22 F.4th at 256 (“[E]xhaustion might not be required if [the petitioner] were challenging her incarceration . . . or the ongoing deprivation of some other liberty interest.” (quoting *Bois v. Marsh*, 801 F.2d 462, 468 (D.C. Cir. 1986))).

56. As a general matter, a habeas petitioner must exhaust available administrative remedies before seeking relief in federal court. However, exhaustion is not jurisdictional in immigration habeas proceedings and is not required where administrative remedies are unavailable, inadequate, futile, or incapable of providing the relief sought. Petitioner has exhausted all available and meaningful administrative remedies to the extent required by law. Since being

taken into immigration custody on August 30, 2025, Petitioner has complied with all immigration requirements, has appeared for all scheduled proceedings, and has actively pursued relief from removal, including the filing of an asylum application.

57. Moreover, no available administrative process affords Petitioner a prompt and meaningful opportunity to challenge the legality of his continued detention under the standards required by due process, including a hearing at which the government bears the burden of proving by clear and convincing evidence that continued detention is justified. As a result, further pursuit of administrative remedies would be futile and would not provide the relief sought.

58. In addition, Petitioner's strong equities further support excusing exhaustion. He has no criminal history, no history of absconding, and maintains significant ties to the United States, including continuous residence and immediate family members lawfully present in the country. He has a reliable sponsor and has demonstrated a consistent willingness to comply with all court and agency requirements. These facts underscore the urgency of judicial review and the inadequacy of administrative remedies.

59. Because Petitioner has either exhausted all available administrative remedies or such remedies are unavailable, inadequate, or futile under the circumstances, the exhaustion requirement is satisfied or excused. Accordingly, this Court may properly exercise jurisdiction over Petitioner's habeas petition and grant appropriate relief.

X. PRAYER FOR RELIEF

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

1. Assume Jurisdiction over this matter;

2. Grant Petitioner a writ of habeas corpus directing Respondents to immediately release Petitioner from custody;
3. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Petitioner;
4. Grant any other and further relief that this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted on December 24, 2025.

/s/ Bhavya Chaudhary

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CERTIFICATE OF SERVICE

I, Rose Love Esq. hereby certify that a copy of the foregoing was mailed First class postage prepaid to the office of the Attorney General at the below mentioned address:

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