

1 Gurpreet Kaur, Esq.
2 Law Office of Gurpreet Kaur
3 674 County Square Dr, Suite 305
4 P.O. Box 2022
5 Ventura, CA 93003
6 Ph. 805-300-9003; Cell 909-997-4570
7 Fax: 805-716-6100
8 E-mail: gurpreetkauresq@gmail.com
9 *Attorney for Petitioner*

10
11
12 **IN THE UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**
14

15 TAJINDER SINGH

16 Petitioner,

17 v.

18 JEREMY CASEY, Warden of the Imperial
19 Regional Detention Center; TODD LYONS,
20 Acting Director of Immigration and Customs
21 Enforcement; KRISTI NOEM, Secretary of the
22 U.S. Department of Homeland Security; PAMELA
23 BONDI, Attorney General of the United States

24 Respondents.

25 Civil Action No. '26CV0035 TWR MMP

26 **VERIFIED PETITION FOR**
27 **HABEAS CORPUS**
28

INTRODUCTION

1. Petitioner, Tajinder Singh, is being unlawfully detained by Respondents and deprived of release on bond. Petitioner was born in India and entered the United States on December 20, 2022. He entered the U.S. without inspection and was briefly detained by Department of Homeland Security (“DHS”) based on a Form I-200 Warrant for Arrest of Alien. Petitioner was released by DHS on an Order of Release on Recognizance (“ROR”).

2. On the same date, DHS served Petitioner with a Notice to Appear (“NTA”) which designated him as “an alien present in the United States who has not been admitted or paroled” and

1 charged him with removability pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality
2 Act as an “alien present in the United States without being admitted or paroled, or who arrived in the
3 United States at any time or place other than as designated by the Attorney General.”

4 3. Following his release from detention, Petitioner timely filed a Form I-589, Application
5 for Asylum with the immigration court. Petitioner also obtained gainful employment and complied all
6 the conditions of his ROR. Petitioner has no criminal history. Nonetheless, ICE detained Petitioner
7 unexpectedly on December 11, 2025 during the normal course of employment.

9 4. Petitioner is subject to pre-final order of removal detention under 8 U.S.C. § 1226(a).
10 Noncitizens detained under section 1226(a) are subject to discretionary detention and can request a
11 change in custody redetermination (i.e. bond hearing) with an Immigration Judge (“IJ”). However, on
12 July 8, 2025, DHS issued an internal Interim Guidance (“Policy”) that took the baseless position that—
13 contrary to statutory principles and governing case law—noncitizens like Petitioner who entered the
14 United States without permission or parole are subject to mandatory detention under 8 U.S.C. § 1225(b)
15 instead of discretionary detention under section 1226(a). On September 5, 2025, the Board of
16 Immigration Appeals (“BIA”) issued a decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA
17 2025) that sided with DHS’ position.

20 5. DHS’ contention that Petitioner is subject to mandatory detention under 8 U.S.C. §
21 1225(b) is without merit. DHS’ Policy has upended decades of DHS’ own interpretation of bond
22 eligibility under sections 1226(a) and 1225(b). The vast majority of district courts across the country
23 that has addressed this issue have rejected DHS’ arguments and found that it violates the INA and
24 noncitizens’ due process rights.

26 6. For the foregoing reasons, the Court should grant habeas relief and direct Respondents
27 to release Petitioner.
28

JURISDICTION

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2 7. This action arises under the Constitution of the United States and the INA, 8 U.S.C.
3 § 1101 *et seq.*

4 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
5 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension
6 Clause).

7
8 9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*,
9 the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
10

VENUE

11
12 10. Venue is proper because Petitioner is detained in Imperial Regional Detention Center,
13 which is within the jurisdiction of this District. Venue is also proper in this District because
14 Respondents are officers, employees, or agencies of the United States. *See* 28 U.S.C. § 1391(e).
15

PARTIES

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17 11. Respondent Jeremy Casey is sued in his official capacity as Warden of the Imperial
18 Regional Detention Center. Respondent Casey is the physical custodian of Petitioner.

19 12. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S.
20 Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has authority
21 to release him.

22 13. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department
23 of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement
24 of the INA, and oversees ICE, the component agency responsible for Petitioner’s detention and custody.
25 Respondent Noem is a legal custodian of Petitioner.
26

27 14. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United
28 States and the senior official of the U.S. Department of Justice. In that capacity, she has the authority to

1 adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which
2 administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

3 **STATEMENT OF FACTS**

4 15. Petitioner was born in India and entered the United States on December 20, 2022. He
5 entered the U.S. without inspection and was briefly detained by Department of Homeland Security
6 (“DHS”) based on a Form I-831. *See* Ex. A.

7
8 16. Petitioner was released by DHS on an Order of Release on Recognizance (“ROR”). *See*
9 Ex. A, Order for ROR.

10 17. On the same date, DHS served Petitioner with a Notice to Appear (“NTA”) which
11 designated him as “an alien present in the United States who has not been admitted or paroled” and
12 charged him with removability pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality
13 Act as an “alien present in the United States without being admitted or paroled, or who arrived in the
14 United States at any time or place other than as designated by the Attorney General.”

15
16 18. Following his release from detention, Petitioner timely filed a Form I-589, Application
17 for Asylum with the immigration court. Petitioner also obtained gainful employment and complied all
18 the conditions of his ROR. Petitioner has no criminal history. Nonetheless, ICE detained Petitioner
19 unexpectedly on December 11, 2025 during the course of his employment. He is employed as a
20 commercial truck driver. While passing through border patrol checkpoint during the normal course of
21 his employment, Petitioner was detained without any explanation or reason.

22
23 **STATUTORY FRAMEWORK**

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25 19. The INA prescribes three basic forms of detention for noncitizens in removal
26 proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited
27 removal proceedings before an IJ. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a. Individuals in section
28 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§

1 1003.19(a), 1236.1(d), while 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 20. Second, the INA provides for mandatory detention of noncitizens subject to expedited
4 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under
5 8 U.S.C. § 1225(b)(2).
6

7 21. Finally, the INA also provides for detention of noncitizens who are subject to final
8 orders of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
9 The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal
10 Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div.
11 C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(c) was most
12 recently amended earlier this year by the Laken Riley Act (“LRA”), Pub. L. No. 119-1, 139 Stat. 3
13 (2025).
14

15 22. Following enactment of the IIRIRA, the EOIR drafted new regulations explaining that,
16 in general, people who entered the country without inspection were not considered detained under
17 section 1225 and that they were instead detained under section 1226(a). *See* Inspection and Expedited
18 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
19 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens
20 who entered without inspection—unless they were subject to some other detention authority—received
21 bond hearings. This practice was also consistent with the practice prior to the enactment of the IIRIRA,
22 in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ
23 or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229
24 (1996) (noting that section 1226(a) simply “restates” the detention authority previously found at section
25 1252(a)).
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27
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1 23. On July 8, 2025, DHS issued a memo to all employees of ICE stating that “[t]his
2 message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited
3 its legal position on detention and release authorities. DHS has determined that section 235 of the
4 Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226],
5 is the applicable immigration detention authority for all applicants for admission. The following interim
6 guidance is intended to ensure immediate and consistent application of the Department’s legal
7 interpretation while additional operational guidance is developed.” The memo further stated DHS’ new
8 position with regard to custody determinations as follows:
9

10 An “applicant for admission” is an alien present in the United States who has not been admitted
11 or who arrives in the United States, whether or not at a designated port of arrival. INA §
12 235(a)(1) [8 U.S.C. § 1225(a)(1)]. **Effective immediately, it is the position of DHS that such**
13 **aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be**
14 **released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible
15 for a custody redetermination hearing (“bond hearing”) before an immigration judge and may
16 not be released for the duration of their removal proceedings absent a parole by DHS. For
17 custody purposes, these aliens are now treated in the same manner that “arriving aliens” have
18 historically been treated. **The only aliens eligible for a custody determination and release**
19 **on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during**
20 **removal proceedings are aliens admitted to the United States and chargeable with**
21 **deportability under INA § 237, with the exception of those subject to mandatory detention**
22 **under INA § 236(c) [8 U.S.C. § 1226(c)].**

23 Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants
24 for admission because Form I-286 applies by its terms only to custody determinations under
25 INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception
26 for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will
27 individually advise, if Enforcement and Removal Operations (ERO) previously conducted a
28 custody determination for an applicant for admission still detained in ICE custody, ERO will
affirmatively cancel the Form I-286.

29 *See* [https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
30 [applications-for-admission](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission) (last accessed October 18, 2025) (emphasis original).

31 24. As a result, DHS now considers all noncitizens who have entered the United States
32 without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents,
33 to be subject to mandatory detention under section 1225(b) and ineligible for release on bond.
34

1 Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on
2 recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal
3 proceedings are aliens admitted to the United States and chargeable with deportability under INA §
4 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. §
5 1226(c)].” *Id.*

6
7 25. On September 5, 2025, the BIA issued a decision in *Matter of Yajure Hurtado*, 29 I&N
8 Dec. 216 (BIA 2025) holding that, based on the plain language of section 1225(b)(2)(A), IJs lack
9 authority to hear bond requests or to grant bond to aliens who are present in the United States without
10 admission.

11 CLAIMS FOR RELIEF

12 **COUNT ONE**

13 **Violation of Fifth Amendment Right to Substantive Due Process**

14
15 26. The allegations in the above paragraphs are realleged and incorporated herein.

16
17 27. Petitioner is challenging DHS’ unlawful custody determination that Petitioner is subject
18 to detention under 8 U.S.C. § 1225(b) and is ineligible for bond and his continued detention under the
19 automatic stay provision at 8 C.F.R. § 1003.19(i)(2), which violates Petitioner’s right to substantive
20 due process of law afforded him through the Fifth Amendment to the United States Constitution.

21
22 28. The Fifth Amendment provides in pertinent part: "No person shall be . . . deprived of
23 life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. "Freedom from
24 imprisonment—from government custody, detention, or other forms of physical restraint—lies at the
25 heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

26
27 29. Petitioner is clearly detained pursuant to 8 U.S.C. § 1226(a) and is eligible for release
28 on bond. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b). Respondents have

1 violated Petitioner's due process rights under the Fifth Amendment by detaining him without the
2 possibility of release on bond.

3 30. As a remedy, the Court should order him released from detention, or alternatively direct
4 that an IJ hold a constitutionally adequate bond hearing.

5
6 **COUNT TWO**

7 **Violation of Petitioner's Procedural Due Process Rights**

8 31. The allegations in the above paragraphs are realleged and incorporated herein.

9 32. In *Mathews v. Eldridge*, the U.S. Supreme Court set forth the factors to consider in
10 determining if government action deprives an individual's Fifth Amendment right to procedural due
11 process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976) The
12 *Mathews* factors are as follows: First, the private interest that will be affected by the official action;
13 [S]econd, the risk of an erroneous deprivation of such interest through the procedures used, and the
14 probable value, if any, of additional or substitute procedural safeguards; [Third], the Government's
15 interest, including the function involved and the fiscal and administrative burdens that the additional
16 or substitute procedural requirement would entail. *Id.* at 335.

17
18 33. As to the private interest factor, it is the "most elemental of liberty interests." *Hamdi v.*
19 *Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner has perhaps the most acute private interest known to
20 personkind short of life itself: bodily freedom.

21
22 34. With respect to the second factor, erroneous deprivation of Petitioner's liberty is at risk.
23 Petitioner is not subject to detention under 8 U.S.C. § 1225(b) as DHS claims. As to the third factor,
24 there is no significant governmental interest in continuing to hold Petitioner in custody, particularly
25 because an IJ has already found that Petitioner has satisfied his burden that he is not a danger to the
26 community or risk of flight when it released him on ROR, and he has no criminal history or violations
27
28

1 of the conditions of his release.

2 **COUNT THREE**

3 **Violation of the Immigration and Nationality Act**

4 35. The allegations in the above paragraphs are realleged and incorporated herein.

5 36. Application of 8 U.S.C. § 1225(b) to Petitioner is a violation of the INA because he is
6 instead subject to discretionary detention under 8 U.S.C. § 1226(a). This deprives noncitizens like
7 Petitioner of the right to a bond hearing that they are statutorily eligible for and eliminates the authority
8 of the IJ to determine who can be released on bond.
9

10 **PRAYER FOR RELIEF**

11 Wherefore, Petitioner requests this Court to grant the following:

- 12
- 13 1. Assume jurisdiction over this matter;
 - 14 2. Enjoin Respondents from transferring Petitioner during the pendency of the instant action;
 - 15 3. Declare that Petitioner's continued detention violates the Immigration and Nationality Act,
16 8 U.S.C. § 1226(a); and/or the Fifth Amendment to the U.S. Constitution;
 - 17 4. Order Petitioner released from detention;
 - 18 5. Grant Equal Access to Justice Act ("EAJA") fees and costs; and
 - 19 6. Grant any other further relief this Court deems just and proper.
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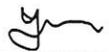
22 Respectfully,

23 Gurpreet Kaur, Esq.
24 **Law Office of Gurpreet Kaur**
25 674 County Square Dr, Suite 305
26 P.O. Box 2022
27 Ventura, CA 93003
28 Ph. 805-300-9003; Cell 909-997-4570
Fax: 805-716-6100
E-mail: gurpreetkauresq@gmail.com

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

I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained at the Imperial Regional Detention Center and immediate relief is sought, counsel verifies this petition on his behalf pursuant to 28 U.S.C. § 2242. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 5th day of January, 2026.



Gurpreet Kaur, Esq.

1 Gurpreet Kaur, Esq.
2 Law Office of Gurpreet Kaur
3 674 County Square Dr, Suite 305
4 P.O. Box 2022
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11 **IN THE UNITED STATES DISTRICT COURT**
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13 TAJINDER SINGH

14 Petitioner,

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16 JEREMY CASEY, Warden of the Imperial
17 Regional Detention Center; TODD LYONS,
18 Acting Director of Immigration and Customs
19 Enforcement; KRISTI NOEM, Secretary of the
20 U.S. Department of Homeland Security; PAMELA
21 BONDI, Attorney General of the United States

22 Respondents.

23 Civil Action No. '26CV0035 TWR MMP

24 **DECLARATION OF GURPREET**
25 **KAUR, ESQ. IN SUPPORT OF**
26 **MOTION FOR TEMPORARY**
27 **RESTRAINING ORDER AND**
28 **PRELIMINARY INJUNCTION**

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DECLARATION OF GURPREET KAUR, ESQ. IN SUPPORT OF MOTION FOR
INJUNCTIVE RELIEF

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I, Gurpreet Kaur, Esq., declare under penalty of perjury as follows:

1. I am the attorney for Petitioner in the above-captioned matter. I make this declaration in support of the Motion for Temporary Restraining Order and Preliminary Injunction.

2. Attached hereto as Exhibit A is a true and accurate copy of the Order of Release.

Dated this 5th day of January, 2026.



Gurpreet Kaur, Esq.

A



DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

PD G-56

File Number: [REDACTED]

DOB: [REDACTED]

Name: TAJINDER SINGH

Date: 12/20/2022

Home Address: [REDACTED] LATHROP, CALIFORNIA 95330

Please present this notice to your local ICE office upon request

OFFICE LOCATION	ICE Field Offices are listed on the attached document entitled "ICE Field Offices." Please call 1-888-351-4024 if you need assistance in locating or reporting to your local ICE office.
DEADLINE	You must report your local ICE office within 60 days of release.
REQUEST	ICE Deportation Officer for continued processing and consideration for enrollment in ATD.
REASON FOR APPOINTMENT	You have been released in the discretion of U.S. Customs and Border Protection in the United States and are now required to contact your local ICE Field Office to complete processing. Contacting ICE will ensure that DHS has your address and contact information up to date. Once you contact ICE for the first time, ICE will evaluate how you can meet the continuing filing requirements which may include in-person reporting. Failure to contact the local ICE office may lead to you being taken into custody or placed on additional forms of supervision or monitoring.
BRING WITH YOU	Identification document (birth certificate, government-issued identity documents such as a driver's license or cédula) and all immigration documents.

FAILURE TO CONTACT THE LOCAL ICE OFFICE AS INSTRUCTED MAY RESULT IN YOUR ARREST AND/OR A LOSS OF THE RIGHT TO ANY POSSIBLE RELIEF. THANK YOU FOR YOUR COOPERATION.

U.S. Department of Homeland Security

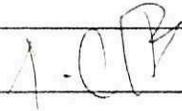
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1385

Alien's Name SINGH, TAJINDER	File Number 	Date December 20, 2022
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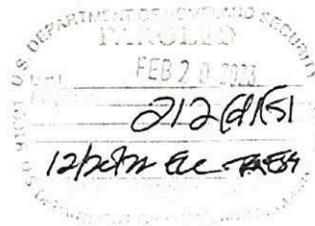
24. REMARK

AS A CONDITION OF YOUR PAROLE YOU ARE TO REPORT TO THE IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE) OFFICE NEAR YOUR FINAL DESTINATION WITHIN 60 DAYS OR FACE REMOVAL FROM THE UNITED STATES. VISIT [WWW. ICE.GOV/CONTACT/FIELD-OFFICES#](http://WWW.ICE.GOV/CONTACT/FIELD-OFFICES#) FOR ADDRESSES.

Signature 	Title
--------------------------------------------------------------------------------------------------	-------

FINS # [REDACTED]		Subject ID: [REDACTED]		Event No: [REDACTED]	
1. FAMILY NAME (Capital Letters) SINGH, TAJINDER		First Name Middle Name		2. Age 19	3. Country of Citizenship INDIA
4. Alias			5. Date Apprehended December 20, 2022		6. Office ELC/ELS
7. Birth Date [REDACTED]	8. Birth Place PUNJAB, PUNJAB, INDIA				
9. Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	10. OSC/WA Served <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No (Explain)				
11. File Number [REDACTED]	12. Bond Date Posted \$				
13. CINS <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	14. Medical Alert <input type="checkbox"/> No <input type="checkbox"/> Yes (Explain)				
15. TRANSFER DATE		FROM		TO	
A					
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C					
16. ADMITTED BY:		19. RELEASED TO: <input type="checkbox"/> V/R <input type="checkbox"/> Deport		22. Rt. Index Print - In	
17. SEARCHED IN BY:		20. RELEASED BY:			
18. DATE ADMITTED:		21. DATE RELEASED:			
24. Remarks: see I-831					
FORM I-385 (08-01-07) ALIEN BOOKING RECORD UNITED STATES DEPARTMENT OF HOMELAND SECURITY					

CONTROL Name (Last, First, Middle) <small>STAGE: 18/19/2022</small>						
Birthdate [REDACTED]		Age 19	Marital Status <input checked="" type="checkbox"/> Single <input type="checkbox"/> Separated <input type="checkbox"/> Widowed <input type="checkbox"/> Married <input type="checkbox"/> Divorced		File Number ELS2112050287 A246 558 200	
Sex M	Hair BLK	Eyes BRO	Complexion DRK	Height 69	Weight 170	Scars or Marks None Visible
U.S. Address/Mail (Number) (Street) (City) (State) (ZIP CODE) [REDACTED] LATHROP, CALIFORNIA 95330						
Alien's Telephone # ()			Date of Action 12/20/2022		Location Code ELS	
City, Province (State) and Country of Birth PUNJAB, PUNJAB, INDIA					Country of Citizenship INDIA	
Date, Place, Time, and Manner of Last Entry/Attempted Entry 12/20/2022, 0710, 20 miles W of CAL, APPOINT					Status at Entry PWA Mexico	
Foreign Address/Residence (Number, Street, City, Province (State), Country) INDIA						
Method of Location/Apprehension PB UNKNOWN			(A/UNDEF) SALMATEO, CA		Date & Hour 12/20/2022 0803	



→ Notice to Appear
issue
→ [unclear] office
San Francisco