

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Aqlb Hussain

(b) County of Residence of First Listed Plaintiff Philadelphia
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

David M Bercovitch, Bercovitch Law Offices, 100 S Broad Street, Suite 1902, Philadelphia PA 19110, 215-220-6310

DEFENDANTS

Warden, Philadelphia Federal Detention Center, et al.

County of Residence of First Listed Defendant Philadelphia
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

N/a

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business in This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business in Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input checked="" type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 340 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation - Transfer
- 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 U.S.C. 2241

Brief description of cause:
Illegal detention of a foreign national by Immigration and Customs Enforcement

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE 1/6/26

SIGNATURE OF ATTORNEY OF RECORD

[Signature]

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

10/2024

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DESIGNATION FORM

Place of Accident, Incident, or Transaction: Philadelphia Federal Detention Center, Philadelphia, PA

RELATED CASE IF ANY: Case Number: N/a Judge: N/a

- 1. Does this case involve property included in an earlier numbered suit? Yes
- 2. Does this case involve a transaction or occurrence which was the subject of an earlier numbered suit? Yes
- 3. Does this case involve the validity or infringement of a patent which was the subject of an earlier numbered suit? Yes
- 4. Is this case a second or successive habeas corpus petition, social security appeal, or pro se case filed by the same individual? Yes
- 5. Is this case related to an earlier numbered suit even though none of the above categories apply? Yes
If yes, attach an explanation.

I certify that, to the best of my knowledge and belief, the within case is / is not related to any pending or previously terminated action in this court.

Civil Litigation Categories

A. Federal Question Cases:

- 1. Indemnity Contract, Marine Contract, and All Other Contracts)
- 2. FELA
- 3. Jones Act-Personal Injury
- 4. Antitrust
- 5. Wage and Hour Class Action/Collective Action
- 6. Patent
- 7. Copyright/Trademark
- 8. Employment
- 9. Labor-Management Relations
- 10. Civil Rights
- 11. Habeas Corpus
- 12. Securities Cases
- 13. Social Security Review Cases
- 14. Qui Tam Cases
- 15. Cases Seeking Systemic Relief *see certification below*
- 16. All Other Federal Question Cases. (Please specify): _____

B. Diversity Jurisdiction Cases:

- 1. Insurance Contract and Other Contracts
- 2. Airplane Personal Injury
- 3. Assault, Defamation
- 4. Marine Personal Injury
- 5. Motor Vehicle Personal Injury
- 6. Other Personal Injury (Please specify): _____
- 7. Products Liability
- 8. All Other Diversity Cases: (Please specify) _____

I certify that, to the best of my knowledge and belief, that the remedy sought in this case does / does not have implications beyond the parties before the court and does / does not seek to bar or mandate statewide or nationwide enforcement of a state or federal law including a rule, regulation, policy, or order of the executive branch or a state or federal agency, whether by declaratory judgment and/or any form of injunctive relief.

ARBITRATION CERTIFICATION (CHECK ONLY ONE BOX BELOW)

I certify that, to the best of my knowledge and belief:

Pursuant to Local Civil Rule 53.2(3), this case is not eligible for arbitration either because (1) it seeks relief other than money damages; (2) the money damages sought are in excess of \$150,000 exclusive of interest and costs; (3) it is a social security case, includes a prisoner as a party, or alleges a violation of a right secured by the U.S. Constitution, or (4) jurisdiction is based in whole or in part on 28 U.S.C. § 1343.

None of the restrictions in Local Civil Rule 53.2 apply and this case is eligible for arbitration.

NOTE: A trial de novo will be by jury only if there has been compliance with F.R.C.P. 38.

3. Mr. Hussain is properly detained, if at all, under INA § 236(a), 8 U.S.C. § 1226(a), and therefore is entitled to a prompt custody redetermination (bond) hearing.

4. Absent an order from this Court, Mr. Hussain will continue to be detained without the bond-hearing procedures Congress provided in § 1226(a).

5. Mr. Hussain asks this Court to issue an Order to Show Cause, declare that § 1226(a) governs his detention, order Respondents to release Petitioner (or, in the alternative, order Respondents to provide him a prompt bond hearing before an Immigration Judge).

JURISDICTION AND VENUE

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et. seq.*

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

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

9. Venue is proper because Petitioner is detained at the Philadelphia Federal Detention Center in Philadelphia, PA, which is within the jurisdiction of this District.

PARTIES

10. Petitioner Mr. Aqib Hussain is a Pakistani citizen and national. His A-Number is



11. Mr. Hussain is currently in civil immigration detention. According to ICE documentation, he is being held at Philadelphia Federal Detention Center, 700 Arch Street, Philadelphia PA 19106.

12. Respondent Warden, Philadelphia Federal Detention Center, Philadelphia, PA is Mr. Hussain's immediate custodian at the facility where he is confined and has day-to-day control over him.

13. Respondent David O'Neill, Acting Field Office Director, Philadelphia Field Office Immigration and Customs Enforcement ("ICE") Enforcement and Removal Operations ("ERO"), is responsible for ICE detention operations and custody decisions in the Philadelphia area.

14. Respondent, Kristi Noem, Secretary of the U.S. Department of Homeland Security ("DHS") is sued in her official capacity and has authority to effectuate the relief requested.

15. Respondent, Pam Bondi, Attorney General of the United States is sued in her official capacity and has authority to effectuate the relief requested.

16. Respondent Executive Office for Immigration Review ("EOIR") is a federal government agency responsible for adjudicating immigration proceedings. EOIR has the authority to release and/or schedule a bond hearing for the unlawfully detained Petitioner Mr. Hussain.

FACTUAL BACKGROUND

17. Upon information and belief, Mr. Hussain was encountered by Border Patrol on or about January 2023.

18. Upon information and belief, DHS served Mr. Hussain with a Notice to Appear charging Mr. Hussain under INA § 212(a)(6)(A)(i).

19. Upon information and belief, DHS issued a Notice of Custody Determination (Form I-286) stating that, pursuant to INA § 236 and 8 C.F.R. part 236, Mr. Hussain would be released on his own recognizance pending removal proceedings.

20. For approximately two years after his entry, Mr. Hussain resided in the United States and complied with immigration reporting requirements.

21. Upon information and belief, on January 2, 2025, Mr. Hussain reported to an ICE check-in appointment at the ICE Philadelphia Field Office and was taken into ICE custody.

22. ICE subsequently transferred Mr. Hussain to the Philadelphia Federal Detention Center in Philadelphia, PA (See attached Exhibit A).

23. Respondents have taken the unconstitutional and unlawful position that Mr. Hussain is subject to mandatory detention under INA § 235, 8 U.S.C. § 1225(b), and therefore is not eligible for a bond hearing before the Immigration Court.

LEGAL FRAMEWORK

28 U.S.C. § 2241

24. This court has authority to grant habeas relief under 28 U.S.C. § 2241, which empowers federal courts to issue the writ to a person “in custody” in violation of the Constitution or laws of the United States. A noncitizen held in immigration detention satisfies the “in custody” requirement, and § 2241 is the proper vehicle to challenge the fact and legality of detention and to seek release or other relief directed to the custodian.

28 U.S.C. § 2243

25. The Court must grant the petition for writ of habeas corpus or issue an order to

show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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.* (emphasis added).

26. 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) (emphasis added).

CLAIMS FOR RELIEF

COUNT I (Statutory/Ultra Vires) DHS lacks authority to detain under § 1225(b)(2); detention is governed by § 1226(a); refusal to provide bond hearing violates the INA/regulations

27. The averments contained in the preceding paragraphs one (1) – twenty-six (26) are incorporated by reference as if fully contained herein.

28. Mr. Hussain is in § 240 removal proceedings (as opposed to expedited removal proceedings) and has long been physically present in the United States for approximately two (2) years.

29. The INA establishes distinct detention frameworks for (a) arriving applicants for admission subject to inspection and expedited procedures, and (b) noncitizens in removal proceedings who are physically present in the United States.

30. Section 1225(b) (INA § 235) governs certain arriving applicants for admission; Section 1226 (INA § 236) governs arrest, detention, and release “pending a decision on whether the alien is to be removed from the United States.” *INA* § 236(a) / 8 *U.S.C.* § 1226(a)

31. DHS previously exercised discretionary custody authority under INA § 236 (8 U.S.C. 1226) and released him on his own recognizance.

32. Now Respondents are attempting to reclassify Mr. Hussain as subject to mandatory detention under § 1225(b) (INA § 235). However, this is inconsistent with the INA’s text, structure, and purpose.

33. Federal courts have held that individuals arrested within the United States and placed in § 240 proceedings are detained, if at all, under § 1226—not § 1225(b)—and are entitled to the bond-hearing procedures provided by § 1226(a). See, e.g., *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (order granting petitioners’ motion for partial summary judgment).

34. Because § 1226(a) governs, Mr. Hussains is entitled to a prompt bond (custody redetermination) hearing before an Immigration Judge pursuant to 8 C.F.R. § 236.1(d) and related regulations.

35. This Court should declare that § 1226(a) governs Mr. Hussain’s detention and order Respondents to release Mr. Hussain unless and until such a hearing is provided.

COUNT II (Due Process): Misclassification and categorical denial of any bond hearing deprives liberty without due process

36. The averments contained in the preceding paragraphs one (1) – thirty-five (35) are incorporated by reference as if fully contained herein.

37. Civil immigration detention must comport with due process. By holding Mr. Hussain without the bond-hearing procedures Congress and the regulations provide under § 1226(a), Respondents are depriving him of liberty without due process of law.

38. Due to Respondents' deliberate and illegal detention of the Mr. Hussain this Honorable Court should Order Respondents to immediately release Mr. Hussain from custody.

39. At minimum, due process requires that Mr. Hussain receive a prompt hearing at which an Immigration Judge may consider whether detention is necessary based on flight risk or danger and may impose conditions of release if appropriate.

40. This Court should grant any additional relief necessary to remedy the due process violation.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue an Order to Show Cause under 28 U.S.C. § 2243 directing Respondents to respond promptly to this Petition;
- B. Declare that Respondents are unlawfully detaining Mr. Hussain under 8 U.S.C. § 1225(b) and that 8 U.S.C. § 1226(a) governs his detention;
- C. Order Respondents to immediately release Mr. Hussain from custody until such a hearing is provided;
- D. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ David M. Bercovitch
David M. Bercovitch, Esq.
PA Bar No. 315026
Bercovitch Law Offices, P.C.
100 S. Broad Street,

Land Title Building, Suite 1902
Philadelphia, PA 19110
Tel.: (215) 220-6310
Email: david@berclaw.com
Counsel for Petitioner Aqib Hussain



Main Menu

Search Results: 1

AQIB HUSSAIN

Country of Birth : Pakistan

A-Number:

Status : In ICE Custody

State: PA

Current Detention Facility: Philadelphia Federal Detention Center

** Click on the Detention Facility name to obtain facility contact information*

[BACK TO SEARCH >](#)

Related Information

- Helpful Info**
- Status of a Case
- About the Detainee Locator
- Brochure
- ICE ERO Field Offices
- ICE Detention Facilities
- Privacy Notice

External Links

[Privacy - Terms](#)