

AMENDED PETITION FOR WRIT OF HABEAS CORPUS

Introduction

1. Petitioner respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to challenge the legality of his continued detention by Respondents in Calexico, California.
2. Petitioner is a national of India and entered the United States in or about 7/09/2022 through the southern border of California. Fearing for his life in India due to his political views, he came to the United States to seek protection and refuge by applying for asylum.
3. Petitioner has no criminal history and poses neither a danger to the community nor a flight risk.
4. Petitioner is currently detained at the Imperial Regional Detention Facility in Calexico, California, where he remains in custody after the denial of his bond request and without a constitutionally adequate justification for continued detention.
5. The Petitioner was unlawfully denied bond because of the Respondents' failure to properly interpret and apply the Immigration and Nationality Act (INA).
6. Petitioner seeks immediate release.
7. Petitioner applied for asylum before United States Immigration authorities. Respondents commenced removal proceedings against Petitioner in Immigration court, entitling Petitioner to present an asylum claim with the due process rights under 8 U.S.C. § 1229a. Yet, Respondents now seek to eject Petitioner from Petitioner's own asylum case and to detain petitioner so that they can rapidly deport Petitioner under an entirely separate law. Respondents' interpretation effectively denies Petitioner the procedural protections guaranteed by the Fifth Amendment and is inconsistent with settled constitutional law.



8. The U.S. Constitution requires Respondents to provide Petitioner with the rights available to Petitioner when Petitioner filed an application for asylum.
9. This Court should grant this petition for a Writ of Habeas Corpus. Petitioner asks that this Court find that Respondents' attempts to continuously detain Petitioner are a violation of due process.

JURISDICTION

10. Petitioner is in the physical custody of Respondents and is detained at the Imperial Regional Detention Facility in Calexico, CA.
11. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C § 1101 *et. seq.*
12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C § 1331 (federal question), and Article 1, § 9 cl 2. Of the United States Constitution (Suspension Clause).
13. This Court may grant relief under the habeas corpus statutes, 28 U.S.C § 2241, the Declaratory Judgment 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).
14. The Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.
15. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. § 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018).

VENUE

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of California, the judicial district in which the Petitioner is detained.
17. Venue is also properly vested in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies in the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of California.

CUSTODY

18. Petitioner is in the physical custody of the Department of Homeland and the U.S. Immigration and Customs Enforcement (ICE). At the time of this petition, Petitioner is detained at the Imperial Regional Detention Facility State Annex facility in Calexico, California. Petitioner is under the direct control of Respondents and their agents.

REQUIREMENTS OF 28 U.S.C 2243

19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondent's "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.*
20. The habeas statute has long been recognized by Courts for its significance in protecting individuals from unlawful detention in the U.S. 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 to all cases of illegal restraint or confinement.”
Fay v. Noia, 372 U.S. 391, 400 (1963).

PARTIES

21. Petitioner is a 29-year-old citizen of India. Petitioner is present within the state of California as of the time of the filing of this petition. Petitioner has been in custody of the Department of Homeland Security (DHS) since November 29, 2025. Since that time, Petitioner has sought relief from removal in Immigration Court.
22. Respondent Warden of the Imperial Regional Detention Facility has immediate physical custody of Petitioner pursuant to the facility’s agreement with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent is a legal custodian of Petitioner.
23. 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.
24. 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.
25. 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.



26. Respondent U.S. Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

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

LEGAL FRAMEWORK

28. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, “[f]reedom from imprisonment- from government custody, detention, or other forms of physical restraint- lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

29. Since the Supreme Court’s *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) decision, the Ninth Circuit has expressed “grave doubt” that “any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government’s arbitrary deprivation of liberty would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

30. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires “adequate procedural protection” that ensure the government’s asserted justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690.

31. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention; to mitigate the risks of danger to the community and to prevent flight. The government may not detain a noncitizen based on any other justification.
32. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. See *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).
33. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).
34. First, incarceration deprives noncitizens of a profound liberty interest – one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091-92.
35. Second, the risk of error is great where the government is represented by trained attorneys and noncitizens are often unrepresented and frankly lack English proficiency. See *Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.
36. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.
37. Here, the Respondents can neither show that the continued detention of the Petitioner is reasonably related to the original purpose and the Mathews tests are satisfied. Similarly, no procedural safeguards are offered to those who remain in custody.



38. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty is paramount.
39. 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).
40. The Refugee Act of 1980 establishes the statutory right to apply for asylum and reflects Congress’s intent that individuals feeling persecution be afforded meaningful procedural protections while their claims are adjudicated, including protection from arbitrary detention that would undermine access to asylum adjudication. Refugee Act of 1980, § 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).
41. Refugee Act reflects a legislative purpose “to give ‘statutory meaning to our national commitment to human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338, 1340 n.2 (9th Cir. 1985).
42. The Refugee Act established the right to apply for asylum in the United States and defines the standards for granting asylum. It is codified in the INA.
43. The INA gives the Attorney General or the Secretary of Homeland Security discretion to grant asylum to noncitizens who satisfy the definition of “refugee.” Under this definition, individuals are generally eligible for asylum if they have experienced past persecution or have a well-founded fear of future persecution on account of race, religion, nationality, membership in a particular social group, or political opinion and if they are unable or unwilling to return to and avail themselves of the protection of their homeland because of that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).



44. A grant of asylum may be discretionary, but the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is physically present in the United States or who arrives in the United States.” 8 U.S.C. § 1158(a)(1).
45. Because of the life-or-death stakes that are often present in asylum matters, the statutory right to apply for asylum is robust. The right includes the right to counsel, at no expense to the government, the right to notice, and the right to access information in support of an application.
46. Noncitizens who seek asylum in the U.S. are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).
47. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Noncitizens may seek administrative appellate review before the Board of Immigration Appeals of removal orders against them and judicial review in federal court upon a petition for review. 8 U.S.C § 1252(a) *et seq.*
48. Immigration detention is civil, not punitive, and is constitutionally permissible only to serve a legitimate, nonpunitive purpose, such as preventing flight or protecting the community. Where due process requires continued detention, the government must justify it through an individualized determination of flight risk or danger. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
49. Immigration detention is civil, not punitive, and must bear a reasonable relationship to its purported purposes, such as ensuring appearance at proceedings or protecting the community.



50. The Due Process Clause of the Fifth Amendment limits the government's authority to detain noncitizens without adequate procedural safeguards. Prolonged detention without a meaningful opportunity for release violates due process, particularly where the individual has no criminal history or has demonstrated eligibility for relief from removal.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

51. Respondents' continued detention of Petitioner constitutes final agency action that is arbitrary and capricious because it reflects a failure to engage in reasoned decision-making and to consider legally required factors, including Petitioner's lack of criminal history, demonstrated compliance with proceedings, and eligibility for release under § 1226(a).

52. Petitioner has exhausted his administrative remedies to the extent required by law. He has fully cooperated with Respondents and has not delayed or obstructed his detention. Petitioner's only remedy is by way of this judicial action.

53. Petitioner requested release on bond, and bond was denied by the Immigration Judge.

54. No further administrative remedy is available that would address the constitutional violations raised in this petition.

STATEMENT OF FACTS

55. Petitioner is a citizen and national of India.

56. Petitioner was threatened by the  in India for his political beliefs. Fearing for his life, he sought protection in the United States.

57. On or about July 09, 2022, Petitioner entered the United States near San Luis, AZ without inspection.



58. Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a and filed his Notice to Appear.
59. Respondents alleged that Petitioner was inadmissible to the United States and commanded that Petitioner appear for a hearing in the immigration court.
60. Prior to his detainment in Imperial Regional Detention Facility, Petitioner resided in Clovis, California.
61. Petitioner applied for asylum before United States and Immigration Services.
62. Petitioner has timely and consistently appearing for all hearings in Immigration Court.
63. Petitioner is now detained in the Imperial Regional Detention Facility without an adequate justification.
64. On December 19, 2025, the Immigration Judge denied Petitioner's request for a custody redetermination for lack of jurisdiction, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and expressly declined to conduct any bond hearing or individualized custody review.
65. During the custody redetermination proceedings, the Immigration Judge expressly indicated that she would deny Petitioner's bond request as a matter of law pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), on the asserted ground that the Immigration Court lacked authority to conduct an individualized custody determination.
66. Because the Immigration Judge took the position that she lacked jurisdiction to provide any meaningful custody review and that denial was inevitable under *Matter of Yajure Hurtado*, Petitioner withdrew the bond request to avoid a futile ruling. As a result, Petitioner has no available administrative forum in which to challenge his continued detention, rendering habeas corpus the only remaining mechanism to vindicate his constitutional rights.



67. As a result, Petitioner has no available administrative forum in which to challenge his detention, rendering habeas corpus the only remaining mechanism to vindicate his constitutional rights.
68. Petitioner has no criminal history.
69. Petitioner has no history of being a public threat.
70. Petitioner is not a flight risk and has every incentive to meet all requirements for his asylum matter.

CLAIMS FOR RELIEF

Count One

Constitutional Claim: Violation of Fifth Amendment Right to Due Process

Procedural Due Process

71. Petitioner restates and recalls all paragraphs as if fully set forth here.
72. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
73. Civil immigration detention is only permissible where it bears a “reasonable relation to the purpose for which the individual was committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).
74. In the Ninth Circuit, prolonged immigration detention without a constitutionally adequate bond hearing violates due process. See *Singh v. Holder*, 638 F.3d 116, 1203-05 (9th Cir. 2011) (requiring bond hearings with procedural protections); *Aleman Gonzalez v. Barr*, 955 F.3d 762, 770 (9th Cir. 2020) (recognizing constitutional limitation on prolonged



- detection). Where detention becomes prolonged, due process requires the Government to justify continued custody at an individualized hearing before a neutral decisionmaker.
75. Petitioner has been detained for a prolonged period despite having no criminal record. Petitioner also maintains strong ties to the community. Petitioner also has a pending and viable form of immigration relief through his asylum application.
76. Petitioner's detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.
77. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.
78. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
79. Petitioner's continued detention without a meaningful opportunity for release violates the Due Process Clause of the Fifth Amendment.
80. Petitioner's detention is excessive and unconstitutional.
81. Petitioner has not received a bond hearing that satisfies due process requirements. Any bond hearing must place the burden of proof on the government to justify continued detention by clear and convincing evidence. The denial of bond without such safeguards violates due process. Here, the government's arguments that the Petitioner is a flight risk and a danger to the community are unwarranted.

Count Two



Violation of the Immigration and Nationality Act Detention After Removal Proceedings

82. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.
83. Petitioner's continued detention violates the Immigration and Nationality Act.
84. The INA does not authorize indefinite or unreasonably prolonged detention.
85. Respondents' continued detention of Petitioner violates the Immigration and Nationality Act ("INA) because Petitioner, who has a pending asylum application and was apprehended within the interior of the United States, is detained pursuant to 8 U.S.C § 1226(a), which authorizes discretionary detention and contemplates individualized custody determinations. The Immigration Judges jurisdictional ruling does not convert Petitioners detention into mandatory detention for constitutional purposes, nor does it eliminate the Government's obligation to provide a constitutionally adequate custody hearing.
86. Despite Petitioner's prolonged detention since September 2025, Respondents have failed to provide a constitutionally adequate bond hearing or otherwise justify continued detention under the INA.
87. The mandatory detention provision of 8 U.S.C § 1225(b)(2) does not apply to noncitizens residing in the United States who entered without inspection and were not placed in expedited removal, and Petitioner is not subject to any other mandatory detention statute, including §1225(b)(1), 1226(c), or 1231.
88. By detaining Petitioner for an unreasonably prolonged period without a meaningful opportunity to seek release on bond or parole, Respondents have exceeded their statutory authority under the INA and are unlawfully restraining Petitioner's liberty.

Count Three



Violation of the Administrative Procedure Act

89. Under the Administrative Procedure Act, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. 706(2)(A).
90. An action is an abuse of discretion if the agency entirely failed to consider an important aspect of the problem, offers an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a different in view or the product of agency expertise. *Nat’l Ass’n of Home Builders v. Defs. Or Wildlife*, 551 U.S. 644, 658 (2007).
91. To survive an APA challenge, the agency must articulate a satisfactory explanation for its action, including a rational connection between the facts found and the choice made. *Dep’t of Com. V. New York*, 139 S. Ct. 2551, 2569 (2019).
92. On information and belief, Respondents have made no substantiated finding that Petitioner is a danger to the community.
93. On information and belief, Respondents have made no substantiated finding that the Petitioner is a flight risk, in fact, the Petitioner has never failed to appear for immigration proceedings.
94. By detaining the Petitioner, the Respondents have abused their discretion.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition



should not be granted within three (3) days;

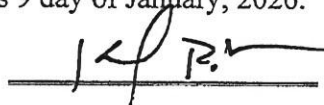
3. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
4. Issue a Writ of Habeas Corpus ordering the Respondents to release Petitioner from custody; hold a hearing if warranted; determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or a danger to the community in light of the available alternatives;
5. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
6. Declare that Petitioner's continued detention is unconstitutional and unlawful because it is not reasonably related to any legitimate purpose of immigration detention;
7. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Petitioner with an individualized bond hearing before an impartial immigration judge within fourteen (14) days, at which the Government bears the burden of proving by clear and convincing evidence that continued detention is justified.
8. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C. §§ 702 and 706, as arbitrary, capricious, and not in accordance with law;
9. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Petitioner an individualized bond hearing before an impartial immigration judge within 14 days, at which the government bears the burden to justify continued detention by clear and convincing evidence;



10. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
11. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

Dated this 9 day of January, 2026.



Kamal D. Mann

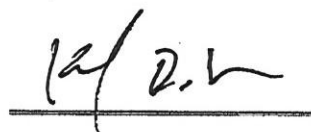
THE MANN LAW OFFICES, P.C.

Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 9 day of January, 2026.



Kamal D. Mann

THE MANN LAW OFFICES, P.C.

Attorney for Petitioner

