

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

---

**MOHIT MOHIT,**

Petitioner,

Case No.: \_\_\_\_\_

V.

**PETITION FOR WRIT OF HABEAS CORPUS**

**ROBERT CERNA,**

**Ice Field Office Director,  
Alvarado, Tx**

**KRISTI NOEM, SECRETARY,**

**Department of Homeland  
Security;**

**PAMELA BONDI, Attorney General  
of The United States;**

**WARDEN, Prairieland Detention  
Facility**

Respondents.

---

**INTRODUCTION**

Petitioner Mohit Mohit ("petitioner") respectfully petitions this court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of his detention by the Immigration and Customs Enforcement ("ICE").

Mr. Mohit was taken into ICE custody on December 29, 2025, immediately upon his release from local criminal custody after all remaining charges were dismissed and has been

detained at the Prairieland Detention Center in Alvarado, Texas. ICE detained Petitioner without exercising the individualized discretion required by statute, rendering his detention ultra vires and unconstitutional.

#### STATEMENT OF FACTS

1. Petitioner Mohit entered the U.S. on April 3, 2019, at or near Texas without inspection or parole. He was apprehended by the Customs and Border Protection (“CBP”) and placed in ICE custody. Petitioner expressed fear of return to India and was scheduled for a Credible Fear Interview. At the time of his entry, Petitioner was released on bond after an Immigration Judge determined that the Petitioner is not a flight risk and a danger to the community.

2. On December 19, 2019, Petitioner filed Form I-589, application for asylum and withholding of removal. On June 26, 2025, the New York Immigration Court ordered Petitioner removal from the U.S. On July 24, 2025, Petitioner filed an appeal to the Board of Immigration Appeals (“BIA”), challenging the decision of the Immigration Judge. The appeal is currently pending (**Exhibit A**). Pending status of the appeal places an automatic stay on removal of the Petitioner from the U.S., as leaving the country would lead to abandonment of the appeal.

3. Simultaneously, Petitioner is married to Ms. Babita Biswa, a U.S. citizen. Together they have a one-year-old daughter. Ms. Biswa filed Form I-130, petition for alien relative, which is currently pending adjudication (**Exhibit B**).

4. In or about 2023, Petitioner was arrested in connection with alleged offenses involving a gambling machine and marijuana located at his retail store. As a result of that arrest, Petitioner was charged with three misdemeanor offenses. Petitioner accepted a guilty plea to one charge and was released from custody. The remaining two charges were left unresolved at that time. All three charges arose from the same event, and it was the first and only instance of misdemeanor demonstrated by the Petitioner.

5. In December 2025, the two unresolved charges were reopened, and Petitioner was briefly re-arrested by local authorities. Those two reopened charges were subsequently dismissed in their entirety, and Petitioner was ordered released from criminal custody (**Exhibit C**).

6. Upon information and belief, immediately upon his release from local custody, on December 29, 2025, ICE took Petitioner into ICE custody without any individualized custody determination and detained him at the Prairieland Detention Center, 1209 Sunflower Ln, Alvarado, TX 76009.

7. Upon information and belief, ICE has detained Petitioner pursuant to ICE policy that began on or about May 20, 2025, directing agents, and granting them power under the One Big Beautiful Bill ("OB BB") to detain individuals at ice check-in appointments or immigration courts, or upon general inquiry, without an individualized assessment of an individual's flight risk, dangerousness, or moral character.

8. On December 18, 2025, the United States District Court for the Central District of California entered final judgment in *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM. The court issued a nationwide declaratory judgment addressing the statutory basis for detention of certain noncitizens and the availability of bond consideration under the Immigration and Nationality Act.

#### **JURISDICTION AND VENUE**

9. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody at the Prairieland Detention Center, under the authority of the United States and challenges the legality of that custody.

10. Jurisdiction is also proper under 28 U.S.C. § 1331 (federal question), the Suspension Clause, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02.

11. Venue lies in the Northern District of Texas, Fort Worth Division, because Petitioner is currently confined at the Prairieland Detention Center in Alvarado, Texas, which is located within this District and Division.

12. This action arises under the Constitution of the United States, and the Immigration and Nationality Act (“INA”).

13. Federal Courts have subject matter jurisdiction under 28 U.S.C. § 2441(c)(1) and (c)(3) (habeas corpus) to determine whether people imprisoned in federal custody are held in violation of law. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001).

14. Jurisdiction is proper pursuant to 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (waiver of sovereign immunity); 28 U.S.C. § 1346 (original jurisdiction); Article I, § 9, clause 2 of the U.S. Constitution (Suspension Clause); the All-Writs Act, 28 U.S.C. § 1651; and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

15. Further, the Court has jurisdiction to grant injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201—02, 1651, 2241, and the All Writs Act, 28 U.S.C. § 1651. Mr. Mohit’s detention constitutes a “severe restraint[] on his individual liberty” interest such that Mr. Mohit is “subject to restraints not shared by public generally” and “in custody in violation of the . . . laws . . . of the United States.” *Spring v. Caldwell*, 692 F.2d 994 (5th Cir. 1982)

16. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness of their detention by DHS. *Jennings v. Rodriguez*, 583 U.S. 281, 292—95 (2018); *Denmore v. Kim*, 538 U.S. 510, 516—17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

#### PARTIES

17. Petitioner Mohit is a citizen and national of India who, prior to his detention, resided at [REDACTED]

18. Respondent Robert Cerna is the Field Office Director of the Enforcement and Removal Operations (“ERO”) office, Dallas, TX. She is responsible for the functioning of and carrying out ICE’s immigration detention operations across this judicial district. Respondent Robert Cerna is a legal custodian of Mr. Mohit. She is sued in her official capacity.

19. Respondent Kristi Noem is named in her official capacity as the Secretary of DHS. In this capacity she is responsible for the administration of the immigration laws pursuant to Section 402 of the Homeland Security Act of 2002. 107 Pub. L. 296 (November 25, 2003); *see also* 8 U.S.C. § 1103(a); routinely transacts business in the District of Texas, where the Petitioner was arrested, as also Alvarado, TX where he is currently detained, and is legally responsible for Mr. Mohit’s incarceration and removal. She is therefore a custodian of Mr. Mohit. Respondent Noem’s office is located at DHS headquarters in Washington, DC, 20528.

20. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. She is responsible for the administration of the immigration laws as exercised by EOIR, pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Northern District of Texas and is legally responsible for administering Mr. Mohit’s removal proceedings as well as the procedural standards used in those proceedings. She is therefore a legal custodian of Mr. Mohit. Respondent Bondi’s office is at DHS of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

21. Respondent Warden is the facility administrator of the Prairieland Detention Center and Petitioner’s immediate physical custodian.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

22. Petitioner is not required to exhaust administrative remedies before seeking habeas relief under 28 U.S.C. § 2241, because Congress has not imposed a statutory exhaustion

requirement for constitutional challenges to immigration detention. *INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001); *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992).

23. Even when courts apply a prudential exhaustion doctrine, exhaustion is not required where administrative remedies are futile, inadequate, or incapable of providing the sought of relief. *McCarthy*, 503 U.S. at 147–48; *Booth v. Churner*, 532 U.S. 731, 741 n.6 (2001).

24. Exhaustion would be futile here because Petitioner does not challenge his removal order; rather, he challenges ICE’s authority to detain him at all without exercising the individualized discretion required by 8 U.S.C. § 1226(a). A post-hoc custody redetermination hearing cannot cure a pre-deprivation violation of the Fifth Amendment or retroactively supply statutory authority that was never exercised. See *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018) (habeas remains available to challenge the legality of detention itself).

25. Moreover, ICE detained Petitioner pursuant to a categorical policy that treats certain noncitizens as ineligible for release without any individualized assessment. Where the agency has already predetermined the issue, administrative review provides no genuine opportunity for relief, and exhaustion serves no purpose. *McCarthy*, 503 U.S. at 148.

26. Because Petitioner challenges the lawfulness of his ongoing detention, rather than any discretionary custody determination, habeas corpus is the proper and necessary vehicle for relief, and exhaustion is not required.

#### **ARGUMENT**

27. Mr. Mohit’s detention violates the Fifth Amendment because ICE deprived him of his liberty without notice, without an opportunity to be heard, and without exercising the individualized discretion required by law to determine whether he posed a flight risk or a danger to the community. ICE detained Mr. Mohit automatically and categorically, not as the result of any deliberate process, but solely based on his immigration status, despite knowing the full factual and

procedural posture of his case. In application to this matter, ICE continues to unlawfully detain the Petitioner while his immigration appeal, and the adjudication of his I-130 petition remains pending.

28. The Fifth Amendment protects all “persons” within the United States, including noncitizens, from deprivation of liberty without due process of law. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Civil immigration detention constitutes a severe restraint on liberty and is constitutionally permissible only when it is imposed pursuant to lawful statutory authority and accompanied by fundamentally fair procedures. *Demore v. Kim*, 538 U.S. 510, 523 (2003).

29. Petitioner does not contend that ICE must provide procedures beyond those already required by statute and regulation. Rather, due process requires that ICE actually comply with the procedures Congress authorized, including the obligation under 8 U.S.C. § 1226(a) to make an individualized custody determination before depriving a person of liberty. Detention imposed without the exercise of that discretion is arbitrary and exceeds constitutional limits. See *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (habeas exists to prevent executive detention without lawful authority).

**Petitioner is detained pursuant to INA § 1226(a)**

30. Although Petitioner was ordered removal by an Immigration Judge, he filed a timely appeal to the Board of Immigration Appeals. The removal order does not become *final* until the Board decides the merits of the appeal. Because the order of removal is not final, Petitioner’s arrest is governed by INA § 1226(a) and the criterion for determination of custody under the statute, apply.

31. Where ICE elects to detain a noncitizen under § 1226(a), governing regulations require that the agency consider whether the individual may be released on bond or other conditions upon demonstrating that he does not pose a danger to persons or property and is likely

to appear for future proceedings. 8 C.F.R. §§ 1236.1(c)(8), 236.1(c)(8). These provisions presuppose the existence of an initial, individualized custody assessment, not categorical detention without inquiry.

32. ICE conducted no such assessment here. Mr. Mohit was taken into immigration custody immediately upon his release from local criminal custody on December 29, 2025—after all remaining charges had been dismissed—without notice, without hearing, and without any evaluation of flight risk or dangerousness. ICE provided no explanation for why detention was necessary and did not exercise discretion in any meaningful sense.

33. Although ICE has relied on recent administrative decisions to justify categorical detention practices, those decisions do not authorize detention in the absence of statutory discretion, nor can they override constitutional constraints. Administrative precedent cannot convert discretionary detention under § 1226(a) into automatic imprisonment without process. See *Zadvydas*, 533 U.S. at 690 (immigration detention is subject to constitutional limitations).

34. Up to and including the filing of this Petition, ICE and DHS have articulated no individualized basis for Mr. Mohit's continued detention. The Fifth Circuit has recognized that the Government's immigration detention authority, while broad, is not unlimited and must remain tethered to statutory authorization and constitutional due process. See *Pierre-Paul v. Barr*, 930 F.3d 684, 692–93 (5th Cir. 2019).

35. Because ICE deprived Mr. Mohit of liberty without statutory authority and without constitutionally adequate process, his detention is unlawful. Habeas corpus is therefore the proper—and necessary—vehicle to remedy this ongoing violation. *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018).

36. Petitioner's detention, after being released on bond at the time of his entry, and while the I-130 petition and the appeal of his removal proceedings remains pending, is unlawful.

**CAUSE OF ACTION**

**COUNT I**

**PROCEDURAL DUE PROCESS VIOLATION UNDER FIFTH AMENDMENT**

37. ICE violated Petitioner's procedural due process rights under the Fifth Amendment by arresting and detaining him immediately upon his release from local criminal custody without notice, without an opportunity to be heard, and without any individualized custody determination assessing whether he posed a flight risk or danger to the community.

38. Civil immigration detention constitutes a severe restraint on liberty and is constitutionally permissible only when imposed pursuant to lawful statutory authority and accompanied by fundamentally fair procedures. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

39. Because Petitioner is detained, if at all, under INA § 236(a), 8 U.S.C. § 1226(a), ICE was required to make an individualized custody determination before depriving him of liberty. ICE's failure to conduct any pre-deprivation assessment renders Petitioner's detention arbitrary and unconstitutional. See *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (habeas corpus exists to prevent executive detention without lawful authority).

**COUNT II**

**SUBSTANTIVE DUE PROCESS VIOLATION UNDER THE FIFTH AMENDMENT**

40. The Fifth Amendment prohibits arbitrary executive detention that is not rationally related to a legitimate governmental purpose. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detaining a noncitizen who lived in the community for years, complied with all criminal and immigration obligations, and was re-detained only after criminal charges were dismissed without any individualized custody determination or exercise of statutory discretion is arbitrary, irrational, and conscience-shocking, and therefore violates substantive due process.

**COUNT III**

**UNLAWFUL DETENTION IN EXCESS OF STATUTORY AUTHORITY (8 U.S.C. §  
1226(A))**

41. Petitioner is detained, if at all, pursuant to INA § 236(a), 8 U.S.C. § 1226(a), which authorizes detention only after the Government exercises individualized discretion to determine whether detention is necessary to mitigate flight risk or danger to the community.

42. ICE failed to exercise the discretion required by § 1226(a). Instead, Petitioner was re-detained automatically and categorically upon his release from local criminal custody, without any individualized assessment, findings, or deliberative process.

43. Detention imposed without the exercise of statutory discretion exceeds the authority Congress granted to ICE and is therefore unlawful. See *Jennings v. Rodriguez*, 583 U.S. 281, 292–95 (2018) (habeas remains available to challenge detention that exceeds statutory authorization).

44. Because ICE deprived Petitioner of liberty without complying with the requirements of § 1226(a), his continued detention is unlawful and must be terminated.

**PRAYER FOR RELIEF**

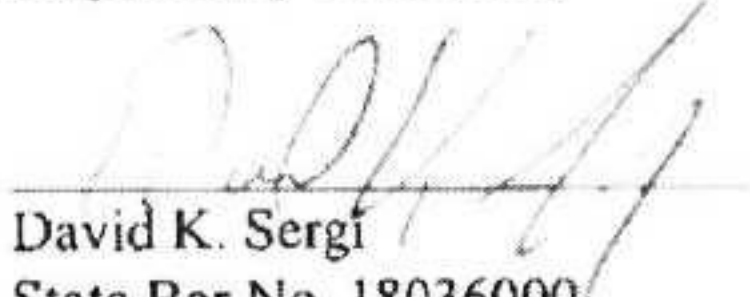
WHEREFORE, Mr. Mohit prays that this Court grants the following relief:

1. Assume jurisdiction over this matter.
2. Enjoin Respondents from transferring Mr. Mohit outside of the jurisdiction of this of this Court while this habeas petition is pending.
3. Issue a writ of habeas corpus compelling and directing the Respondents to effectuate release of the Petitioner from detention within 14 days.

4. Award the Petitioner attorneys' fees and costs under the Equal Access to Justice Act ("EAJA") as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, or any other basis such justified under law; and
5. Grant any other and further relief that this Court deems just and proper.

Dated: January 12, 2026

Respectfully submitted,



David K. Sergi  
State Bar No. 18036000  
david@sergilaw.com  
Anthony J. Fusco  
State Bar No. 24065259  
tony@sergilaw.com  
Sergi & Associates, P.C.  
329 S. Guadalupe St.  
San Marcos, Tx 78666  
P: 512-392-5010  
*Attorneys for Petitioner*