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9
10 **UNITED STATES DISTRICT COURT**
WESTERN DISTRICT OF WASHINGTON
11 **AT SEATTLE**

12 MOHIT JOSHI,
Petitioner,

13 v.

14 Cammilla WAMSLEY, Seattle Field
Office Director, Enforcement and Removal
15 Operations, U.S. Immigration and Customs
Enforcement (ICE); Bruce SCOTT,
16 Warden, Northwest ICE Processing Center,
PAMELA BONDI, Attorney General of
17 the United States, acting in their official
capacities,

18 Respondents.

Case No. 2:26-cv-00148

**PETITION FOR WRIT OF
HABEAS CORPUS**

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I. INTRODUCTION

1. Petitioner Mohit Joshi brings this petition for writ of habeas corpus seeking an order from this Court requiring respondents to provide him with a bond hearing. He has been detained in Respondents' custody continuously since entering the United States in October of 2024.

2. Petitioner requested a custody redetermination from an Immigration Judge which was scheduled for January 6, 2025. At the hearing, the Immigration Judge determined that he did not have jurisdiction to conduct a bond hearing. Ex. 8.¹

3. The Constitution protects Petitioner—and every other person present in this country—from arbitrary arrest and detention and guarantees her due process of law. While the Executive Branch has broad power over the regulation of noncitizens, those powers are still “subject to important constitutional limitations.” Zadvydas v. Davis, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” Foucha v. Louisiana, 504 U.S. 71, 80 (1992).

4. Precedent in the Ninth Circuit and this District are clear in finding that civil immigration detention, including, as relevant here, pursuant to 8 U.S.C. 1235(b) “do[es] not authorize the Attorney General to incarcerate detainees for an indefinite period” without a bond hearing and that these statutes “permit detention only while removal

¹ All exhibits referenced in this Petition are exhibits to the Declaration of Daljit Ghuman.

1 remains reasonably foreseeable"). Nadarajah v. Gonzales, 443 F.3d 1069, 1078 (9th Cir.
2 2006); Banda v. McAleenan, 385 F. Supp. 3d 1099 (W.D. Wash. 2019).

3 5. Petitioner respectfully seeks a writ of habeas corpus ordering the
4 government to vindicate his Due Process rights by ordering a bond hearing before a
5 neutral arbiter. He asks the Court to order Respondents to bear the burden of
6 demonstrating by clear and convincing evidence that Petitioner is either a danger to his
7 community or a flight risk.

8 9 **II. JURISDICTION AND VENUE**

10 6. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331
11 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory
12 Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S.
13 Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S.
14 Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

15 7. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a)
16 and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within
17 this district. NW ICE PROCESSING CTR. 1623 E J STREET. SUITE 5, TACOMA. WA
18 98421 .

19 **III. PARTIES**

20 8. Petitioner, Mohit Joshi, is a 29-year-old native and citizen of India. he was
21 arrested and detained after entering the United States on October 20, 2024, without
22

1 inspection. He has remained in custody since that date and is presently in physical custody
2 of Immigration and Customs Enforcement (ICE) at NW ICE PROCESSING CTR. 1623 E
3 J STREET. SUITE 5, TACOMA. WA 98421

4 9. Respondent Cammilla Wamsley is the Seattle Field Office Director of
5 ICE's Enforcement and Removal Operation division. As Petitioners' immediate
6 custodian, she is responsible for Petitioners' detention and removal. She is sued in her
7 official capacity.

8 10. Respondent Bruce Scott is employed by The Geo Group, Inc., as Warden of
9 the NWIPC, where Petitioners are detained. He has immediate physical custody of
10 Petitioners. He is sued in his official capacity.

11 11. Respondent Pamela Bondi is the Attorney General of the United States and
12 the most senior official at the Department of Justice. In that capacity and through her
13 agents, she is responsible for overseeing the implementation and enforcement of the
14 federal immigration laws. The Attorney General delegates this responsibility to the
15 Executive Office for Immigration Review, which administers the immigration courts and
16 the BIA. Respondent Bondi is sued in her official capacity.

17 18 **IV. EXHAUSTION**

19 12. There is no requirement to exhaust because no other forum exists in which
20 Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior
21 to challenging the constitutionality of an arrest or detention or challenging a policy under
22 the Administrative Procedure Act. Prudential exhaustion is not required here because it
Petition for Writ of Habeas Corpus

1 would be futile, and Petitioner will “suffer irreparable harm if unable to secure immediate
2 judicial consideration of [their] claim.” McCarthy v. Madigan, 503 U.S. 140, 147 (1992).

3 Any further exhaustion requirements would be unreasonable.

4 13. Nonetheless, exhaustion is also demonstrably futile in this case as
5 Respondents will claim that they are bound by (1) Matter of M-S- 27 I. & N. Dec. 509
6 (U.S. Att’y Gen. 2019)(An alien who is transferred from expedited removal proceedings to
7 full removal proceedings after establishing a credible fear of persecution or torture is
8 ineligible for release on bond under 8 U.S.C. 1225(b) (though it is unclear if a credible fear
9 determination occurred) and/or; (2) Matter of Yajure Hurtado, 29 I. & N. Dec. 216, 2025
10 BIA LEXIS 44 (September 5, 2025) any noncitizen present in the United States without
11 inspection is ineligible for bond hearing); *See also*, Brief for Appellants at 40, Padilla v.
12 Immigr. & Customs Enft, No. 24-2801 (9th Cir. Aug. 19, 2024), Dkt. 16-1 (“The
13 undisputed legality of § 1225(b)(1)(B)(ii) is underscored, moreover, by two safety valves:
14 the availability of parole and individual habeas actions.”) .

15 16 V. LEGAL BACKGROUND

17 A. Due Process protections apply to noncitizens

18 14. The Constitution affords and requires due process rights for “all ‘persons’
19 within the United States, including [noncitizens], whether their presence here is lawful,
20 unlawful, temporary, or permanent.” Hernandez v. Sessions, 872 F.3d 976, 990 (9th Cir.
21 2017) (quoting Zadvydas, 533 U.S. at 693). These due process rights are both substantive
22 and procedural.

1 15. These protections extend to noncitizens as “[i]n our society liberty is the
2 norm, and detention prior to trial or without trial is the carefully limited exception.”
3 United States v. Salerno, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from
4 imprisonment—from government custody, detention, or other forms of physical
5 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
6 Zadvydas, 533 U.S. at 690.

7 16. Substantive due process requires that all forms of civil detention—including
8 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See*
9 Jackson v. Indiana, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only
10 two permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s
11 appearance at immigration proceedings and preventing danger to the community.
12 Zadvydas, 533 U.S. at 690–92; *see also* Demore v. Kim, 538 U.S. 510 at 519–20, 527–28,
13 31 (2003).

14 17. Secondly, the Due Process Clause’s procedural protections require that even
15 permissible forms of detention only be imposed where procedural safeguards are in place
16 and have been followed. Lopez v. Heinauer, 332 F.3d 507, 512 (8th Cir. 2003) (“The
17 Supreme Court has long recognized that deportable aliens are entitled to constitutional
18 protections of due process.”)

19
20 **B. Detention scheme under 1225(b)(1)**

21 18. Noncitizens found inadmissible on entry may be removed through an
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1 expedited removal process. 8 U.S.C. § 1225(b). However, if they indicate a fear of
2 persecution in their home country they may seek asylum protections under 8 U.S.C. §
3 1225(b)(1)(A)(ii).

4 19. A noncitizen indicating an intention to apply for asylum is referred for an
5 interview to determine whether he or she has a credible fear of persecution or torture if
6 returned to their home country (a "credible fear interview"). 8 U.S.C. § 1225(b)(1)(A)(ii).

7 20. Any noncitizen subject to this process "shall be detained pending a final
8 determination of credible fear of persecution, and, if found not to have such a fear, until
9 removed." 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

10 21. "If the asylum officer finds an applicant's asserted fear to be credible, the
11 applicant will receive 'full consideration' of his asylum claim in a standard removal
12 hearing." Dep't of Homeland Sec. v. Thuraissigiam, 140 S. Ct. 1959, 1965 (quoting 8
13 C.F.R. § 208.30(f); citing 8 U.S.C. § 1225(b)(1)(B)(ii)).

14 22. "Applicants who are found to have a credible fear may also be detained
15 pending further consideration of their asylum applications." Thuraissigiam, 140 S. Ct. at
16 1965 (citing 8 U.S.C. § 1225(b)(1)(B)(ii)).

17
18 **C. Due Process safety-valve for mandatory detention cases**

19 23. While the Ninth Circuit has not issued ruling on the test to be applied to
20 determine when detention becomes unreasonably "prolonged" and implicates due
21 process, many Courts have employed a test employed in Banda which requires weighing
22 of six factors:

- i. the total length of detention to date;
- ii. the likely duration of future detention;
- iii. the conditions of detention;
- iv. delays in the removal proceedings caused by the detainee;
- v. delays in the removal proceedings caused by the government;
- vi. the likelihood that the removal proceedings will result in a final order of removal.

See e.g. Amhirra v. Warden, Nw. Det. Ctr., No. 2:25-cv-01376-TL, 2025 U.S. Dist. LEXIS 265387, at *13 (W.D. Wash. Dec. 23, 2025).

VI. FACTUAL ALLEGATIONS

A. Petitioner's entry and duration of detention to date

24. Petitioner entered the United States without inspection on October 20, 2024. Ex. 1.

25. Petitioner was arrested by Customs Border Protection inside the United States. Ex. 2.

26. Petitioner was never released from custody following initial arrest.

27. Petitioner has been in custody for over 14 months. Decl. of Daljit Guman at ¶

28. Petitioner remains detained at NW ICE PROCESSING CTR. 1623 E J STREET. SUITE 5, TACOMA. WA 98421. Ex.4

B. Likely duration of continued detention

29. Petitioner is scheduled for individual merits hearing on January 28, 2026. Ex. 3.

1 30. Petitioner's case has been rescheduled in the past due to his medical issues,
2 concerns over competency, and difficulty for Petitioner to assist counsel in gathering
3 evidence due to the practical realities of the detention setting and other issues.

4 31. Even if a negative decision is issued at the end of January, Petitioner is
5 likely to appeal and will remain detained during that process.

6 32. Conversely, if the judge grants Petitioner's claim for asylum or other
7 protection, DHS could still appeal that decision to the BIA.

8 33. The filing of the appeal means, as a matter of law, the immigration judge's
9 decision is not final and there is no final order of removal in Petitioner's case. 8 C.F.R. §
10 1003.6(a) ("If a party appeals an immigration judge's decision on the merits of the case
11 (not including bond and custody determinations) to the BIA during the appeal period, the
12 order of removal is automatically stayed during the BIA's adjudication of the appeal.")

13 34. Bond appeals before the BIA, on average, take six months to complete.
14 Vazquez v. Bostock, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025) (Dk 55-1 contains a
15 spreadsheet released by EOIR through FOIA); Lopez-Campos v. Raycraft, 797 F.Supp.3d
16 771, 779 (E.D.Mich., 2025).

17 35. On information and belief, appeals on the merits for detained cases are
18 routinely taking over six months and many merit appeals in non-detained cases remain
19 pending for 3-6 years. Ex. 5.

20 36. These backlogs and likely the growing nature of delays have been noted by
21 Federal Courts. "[I]t is common (judicial) knowledge these days that the BIA is presently
22 drinking from a veritable firehose of hundreds of thousands of cases on appeal. Leal-

1 Hernandez v. Noem, 2025 WL 2430025, at *11 (D.Md., 2025)

2 37. If Petitioner's appeal is denied at the Board of Immigration Appeals, he
3 would still have statutory right to seek review from the Ninth Circuit Court of Appeals
4 through filing of a petition for review.

5 38. Obtaining decision on a Petition for Review from the Ninth Circuit Court
6 of Appeals takes months or longer.

7 39. Petitioner's future detention is likely to last many more months, if not years,
8 if he is not released at a bond hearing. Banda, 385 F. Supp. 3d at 1119 (finding that in
9 2019 an appeal to the BIA and subsequent judicial review "may take up to two years or
10 longer").

11
12 **C. Conditions of detention**

13 40. As noted, Petitioner was assaulted by fellow inmates while in custody. Ex.
14 6.

15 41. His guard, a supposed protector of facility safety, is alleged to have
16 watched idly while the incident occurred or at least to have not reacted swiftly.

17 42. Petitioner endured serious injuries as a result. Ex. 6.

18 43. The conditions at the conditions of detention at NWIPC are similar to penal
19 confinement, Belqasim v. Bostock, No. 2:25-cv-01282, 2025 U.S. Dist. LEXIS 224772,
20 at *24 (W.D. Wash. Oct. 28, 2025).

21 44. While immigration detention is civil in nature, Petitioner's confinement
22 mirrors prison-like conditions. See, e.g., Reyes v. Wolf, No. C20-0377-JLR-MAT, 2020
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1 WL 6820903, at *3 (W.D. Wash. Aug. 7, 2020) (citation modified), R&R adopted as
2 modified, No. C20-0377JLR, 2020 WL 6820822 (W.D. Wash. Nov. 20, 2020).

3
4 **D. Removal proceedings**

5 45. Petitioner was arrested October 20, 2024, inside the United States.).

6 46. He was not seeking admission at that time.

7 47. The Form I-213 (record of inadmissible/deportable alien), a form used by
8 CBP, and other agencies, to record encounters with persons inside the U.S., indicates that
9 Petitioner did not manifest a fear of return to India. Ex. 2.

10 48. Petitioner was placed in standard removal proceedings, and his expedited
11 removal order was vacated. Ex 1.

12 49. It is unclear what occurred between October 20, 2024, and January 15,
13 2025, in Petitioner's case.

14 50. Removal proceedings were initiated through filing of a Notice to Appear
15 with the Immigration Court on January 23, 2025. Ex. 1

16 51. On July 8, 2025, Petitioner was assaulted by other prisoners while in
17 custody of Respondents. Ex. 6.

18 52. On July 11, 2025, Petitioner's counsel filed a motion to withdraw to the
19 immigration citing inability to properly represent Petitioner due to difficulties with
20 communication, amongst other issues. Ghuman Dec. at ¶ 8..

21 53. On August 19, 2025, Petitioner's new counsel entered appearance. Id.

22 54. A new hearing was scheduled for October 9, 2025.

1 55. On October 10, 2025, a hearing was held relating to Petitioner's case.

2 56. Meanwhile, Petitioner's mental health suffered, and he sought further
3 psychiatric medical care. Ex. 7.

4 57. Petitioner was assessed to have likely anxiety disorder, depression, and
5 PTSD. He suffered from headaches, sleeplessness, nightmares, and thoughts of wishing
6 he would not wake up from his sleep. Ex. 7.

7 58. Petitioner's counsel sought and submitted medical records due to concerns
8 over deepening despair and decreased mental functioning from the Petitioner.

9 59. Counsel filed request for a competency hearing with the Court. Ghuman
10 Decl. ¶ 10.

11 60. The case is now set for hearing on January 28, 2026. Ex. 3.

12
13 **E. Likelihood that removal proceedings will result in final order of removal**

14 61. DHS has submitted a prehearing statement to the Immigration Judge
15 indicating that Petitioner presented evidence to establish *prima facie* eligibility for
16 withholding of removal, 1231(b)(3)(the "Attorney General may not remove an alien to a
17 country if the Attorney General decides that the alien's life or freedom would be
18 threatened in that country because of the alien's race, religion, nationality, membership in
19 a particular social group, or political opinion." and for relief under the United Nations
20 Convention Against Torture.

21 62. Petitioner submitted application and materials establishing eligibility for
22 asylum under the Act.

1 63. It appears DHS did not believe Petitioner established eligibility for asylum,
2 on the papers, due to his having entered the U.S. without inspection. Exceptions exist to
3 this somewhat new regulatory bar to asylum and Petitioner's application lays out
4 plausible grounds to meet the exception.

5 64. "[W]here a noncitizen has asserted a good faith challenge to removal, 'the
6 categorical nature of the detention will become increasingly unreasonable.'"

7 65. Scott v. Wamsley, No. 2:25-cv-1819, 2025 U.S. Dist. LEXIS 253288, at
8 *27 (W.D. Wash. Dec. 8, 2025)(quoting Martinez v. Clark, No. C18-1669-RAJ-MAT,
9 2019 LX 57468 (W.D. Wash. May 23, 2019).

10
11 **F. Summary**

12 66. Petitioner has been detained for over 14 months despite having no criminal
13 history.

14 67. Petitioner has never been determined to be a flight risk or danger to the
15 community.

16 68. Petitioner's case, regardless of the outcome before the immigration court, is
17 likely to stretch on for many more months or years given both sides right to appeal and the
18 growing backlogs at the BIA.

19 69. Petitioner is confined in penal-like conditions. The conditions are punitive.

20 70. The detention is not related to either of the permissible justifications for
21 civil immigration detention. His detention does not further any legitimate government
22 interest.

1 71. Petitioner is not subject to final order of removal and there is no process
2 underway to remove him from the United States in any foreseeable time.

3 72. Proceedings have been delayed due to variety of factors including ordinary
4 time it takes to prepare a case for presentation to the court, Petitioner being assaulted,
5 mental health issues, ordinary scheduling times of the immigration court, withdrawal and
6 entry of counsels.

7 73. Respondents are not legally allowed to remove Petitioner from the U.S. at
8 this time.

9 74. Petitioner has been found to have a prima facie case for protection from
10 removal based on past harm and/or future harm on account of a statutorily protected
11 characteristic, here likely religion, by DHS.

VII. CLAIM FOR RELIEF

Violation of the Fifth Amendment Due Process Clause

75. Mr. Joshi re-alleges and incorporates by reference the paragraphs above. The Due Process Clause of the Fifth Amendment forbids the government from depriving any “person” of liberty “without due process of law.” U.S. Const. amend. V. Freedom 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, 533 U.S. at 690.

76. Mr. Joshi’s detention—which has already lasted over 14 months—is “prolonged.” There is no foreseeable end in sight to the detention in Mr. Joshi’s case and thus the detention risks becoming indefinite.

77. To justify Mr. Joshi’s ongoing prolonged detention, due process requires that the government establish, at an individualized hearing before a neutral decisionmaker, that Petitioner’s detention is justified by clear and convincing evidence of flight risk or danger, even after considering whether alternatives to detention could sufficiently mitigate that risk.

78. For these reasons, Mr. Joshi’s ongoing prolonged detention without hearing violates the Due Process Clause of the Fifth Amendment. *See Maksim v. Warden, Golden State Annex*, No. 1:25-CV-00955-SKO (HC), 2025 U.S. Dist. LEXIS 200588, 2025 WL 2879328, at *3 (E.D. Cal. Oct. 9, 2025) (collecting cases).

VIII. PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this matter;
- B. Order Respondents to schedule an individual bond hearing before a neutral arbiter within 5 days of the Court's order;
- C. Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
- D. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 13th day of January 2026,

/s/ Daljit Ghuman

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