

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

PRABHJIT SINGH,
Petitioner,

v.

KRISTI NOEM,
In her official capacity as Secretary
of Homeland Security,

WARDEN OF IMPERIAL REGIONAL
DETENTION FACILITY;

GREGORY JOHN ARCHAMBEAULT,
in his official capacity as Field
Office Director, San Diego Field
Office, U.S. Immigration & Customs
Enforcement;


TODD LYONS,
In his official capacity as Acting
Director, U.S. Immigration and
Customs Enforcement,

PAMELA BONDI,
In her official capacity as Attorney
General,

Respondent.

'26 CV0261 RBM MSB

Civil Action No. 26-

Immigration No. 

VERIFIED EMERGENCY
PETITION FOR WRIT OF
HABEAS CORPUS AND
INCORPORATED
MEMORANDUM OF LAW

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PRELIMINARY STATEMENT

1. Prabhjit Singh (“Mr. Singh”) is citizen of India who entered the United States without inspection on or about April 25, 2023 at or near San Luis, Arizona. He claimed asylum based upon a fear of return to India due to political persecution. He was issued a Notice to Appear dated April 26, 2023 charging him with being an alien present in the United States who has not been admitted or paroled. See Exh. A, Notice to Appear. Upon information and belief, at that time, ICE made a determination that Mr. Singh was neither a flight risk nor a danger to the community, and released him. Nevertheless, Mr. Singh was re-detained by ICE at the ICE ERO Santa Ana Sub-Office on July 10, 2025. Upon information and belief, ICE did not have a warrant for Mr. Singh’s detention at the time he was detained. He is presently detained in the custody of ICE ERO’s San Diego Field Office at the Imperial Regional Detention Facility and has a pending asylum application before the Board of Immigration Appeals.

2. DHS and EOIR each have nationwide policies mandating the detention of all persons who entered without admission or parole, regardless of whether that person was apprehended upon arrival. Most recently, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the Board of Immigration Appeals (BIA) held that all persons who have entered the United States without admission or parole are now subject to mandatory detention under § 1225(b)(2)(A). This legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

3. This systemic misclassification of people arrested inside the United States is in clear violation of the law. These people are generally subject to the detention provisions of 8 U.S.C. § 1226, which usually allows for release on bond and conditions during the pendency of immigration proceedings. It has been this way for decades. DHS and DOJ are now

misclassifying these people as being subject to 8 U.S.C. § 1225, which does not allow for release on bond. This misclassification is contrary to almost 30 years of settled law and practice, and it is unlawfully premised solely upon the manner in which the person initially entered the country—in some cases, decades ago.

4. Accordingly, Petitioner seeks a writ of habeas corpus. Petitioner requests an order requiring his immediate release, or in the alternative, his immediate release unless Respondents provide a bond hearing under § 1226(a) within seven days.

THE PARTIES

5. Petitioner is detained in the custody of ICE. He is being detained in the custody of the San Diego ICE Field Office at the Imperial Regional Detention Facility, at 1572 Gateway Road, Calexico, CA 92231, which is located within this judicial district. His custody and governmental actions related to his removal are likewise controlled by the San Diego Field Office.

6. Respondent Warden of the Imperial Regional Detention Facility is the unknown individual who is in charge of the Imperial Regional Detention Facility, and is therefore the individual who has direct physical authority over the Petitioner. His office is located at 1572 Gateway Road, Calexico, CA 92231.

7. Respondent Gregory John Archambeault is the Field Office Director for the San Diego Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement. He is the local ICE official who has authority over the Petitioner. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), cert. denied, 122 S. Ct. 43 (2001). Respondent Archambeault's office is at 880 Front Street #2242, San Diego, CA 92101.

8. Petitioner's custody and the governmental actions related to his potential removal from the district are likewise controlled by Respondents Lyons, who is the Acting Director of ICE, and Noem, who is the Secretary of Homeland Security.

CUSTODY

9. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE") at the Imperial Regional Detention Facility in Calexico, California. The Deportation Officer responsible for his case is employed by the San Diego Field Office of ICE. The Petitioner is under the direct care, custody and control of Respondents and their agents.

JURISDICTION & VENUE

I. SUBJECT MATTER JURISDICTION

10. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570, and the Administrative Procedure Act ("APA"), 5 U.S.C. § 701 et seq.

11. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I, § 9, el. 2 of the Constitution of the United States (the Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, the All Writs Act, 28 U.S.C. § 1651 and the Court's equitable habeas authority.

II. PERSONAL JURISDICTION

12. This Court has personal jurisdiction over Petitioner's immediate custodian (who is physically within the district).¹

III. VENUE

13. 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 Eastern District of California, the judicial district in which Petitioner is being detained. Petitioner is being detained at the California City Correctional Facility and his detention falls under the jurisdiction of the ICE Field Office of San Francisco, California, which encompasses the area where Petitioner is being detained, pursuant to 28 U.S.C. § 1391.

FACTS

1. Satnam Singh is a citizen of India. He entered the United States without inspection on or about April 25, 2023 at or near San Luis, Arizona.
2. He was issued a Notice to Appear (NTA) dated April 26, 2023, charging him with being an "alien present in the United States who has not been admitted or paroled" and released from custody. See Exh A.
3. At the time he was released, ICE would have made a determination that he is neither a flight risk nor a danger to the community.
4. On July 10, 2025, he was detained by ICE when he reported to them at a routine check-in appointment at the ICE ERO Sub-office in Santa Ana, California.
5. When ICE re-detained him, upon information and belief, they did not arrest him pursuant to a warrant as required by § 1226(a).

¹ Petitioner asserts this Court has personal jurisdiction over the additional Respondents, however, in the interests of brevity, the Petitioner will brief this if (1) any governmental acts challenged herein are found to relate to those Respondents (instead of the immediate custodian) and (2) the Government seeks to argue against personal jurisdiction.

6. Upon information and belief, ICE has issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.
7. Nothing changed so as to make Petitioner a danger to the community or a flight risk. He were re-detained without any opportunity to meaningfully challenge the decision to re-detain him.
8. He is presently detained in the custody of ICE ERO's San Diego Field Office at the Imperial Regional Detention Facility.
9. Without relief from this Court, Petitioner faces the prospect of months, or even years, in immigration custody, as he continues to pursue his asylum claim.

LEGAL FRAMEWORK WITH RESPECT TO BOND

10. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

11. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge (IJ). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

12. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

13. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

14. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

15. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

16. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without admission or parole were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

17. Thus, in the decades that followed, most people who entered without admission or parole and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

18. On July 8, 2025, ICE, “in coordination with” the Department of Justice, announced a new policy that rejected this well-established understanding of the statutory framework and reversed decades of practice.

19. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without admission or parole shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and

therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

20. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are considered applicants for admission who are seeking admission and are ineligible for IJ bond hearings.

21. Virtually every federal Court to be faced with this issue, has rejected Respondents' new interpretation of the INA's detention authorities, including this Court. *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Coc Pacham v. Archeambault*, No. 3:25-cv-03163-GPC-DEB (S.D. Cal. Dec. 17, 2025); *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO (HC), 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *A.E.R.T. v. Wofford*, 1:25-CV-1824-KES-SKO (HC) (E.D. Cal.. Dec. 16, 2025); *Alvarez Ortiz v. Freden*, No. 25-CV-960-LJV (W.D.N.Y. November 4, 2025); *Da Cunha v. Freden*, 25-CV-06532-MAV, ECF No. 25 (W.D.N.Y. Oct. 20, 2025); *Quituzaca Quituisaca v. Bondi*, 25-cv-6527-EAW (W.D.N.Y. Nov. 12, 2025); *Najeem v. Freden*, 25-cv-6584-EAW (W.D.N.Y. Nov. 12, 2025); *Mendoza v. Bondi*, 25-cv-954-EAW (W.D.N.Y. Nov. 12, 2025); *Martinez v. Bondi*, 25-cv-6508-EAW (W.D.N.Y. Nov. 12, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation

adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

22. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

23. Subsection 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

24. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without admission or parole. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). “When Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

25. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

26. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

27. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who has already entered and was residing in the United States at the time he was apprehended.

28. Many federal judges have held that immediate release is the appropriate remedy where a non-citizen petitioner is detained unlawfully in violation of their due process rights, such as by being detained without a warrant as required under § 1226(a). *See J.A.C.P. v. Wofford*, 2025 WL 3013328, at *8; see also *Chogllo Chafla v. Scott*, No. 2:25-CV-00437-SDN, 2025 WL 2688541, at *11 (D. Me. Sept. 22, 2025) (“Issuance of a warrant is a necessary condition to justify discretionary detention under section 1226(a).”). “Section 1226(a) plainly states: ‘On a warrant issued by the Attorney General, a [noncitizen] may be arrested and detained’” *Id.* (quoting 8 U.S.C. § 1226(a)). “As such, it follows that absent a warrant a noncitizen may not be arrested and detained under section 1226(a).” *Id.* “To put it simply, [petitioner’s] detention[] [is] improper because there is no evidence in the record that [he was] arrested pursuant to a warrant.” *Id.* “Since the Government did not comply with the plain language of section 1226(a), [petitioner’s] immediate release is justified.” *Id.*; *Chiliquinga Yumbillo v. Stamper*, No. 2:25-CV-00479-SDN, 2025 WL 2783642, at *5 (D. Me. Sept. 30, 2025) (reaching same conclusion).

CLAIMS FOR RELIEF

COUNT 1: VIOLATION OF THE INA

29. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

30. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by

Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

31. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

32. The failure of Respondents to detain Petitioner pursuant to a warrant as required under § 1226(a) makes his detention an *ultra vires* act, as the plain language of § 1226(a) makes it clear that absent a warrant a noncitizen may not be arrested and detained under that section.

COUNT 2: VIOLATION OF DUE PROCESS

33. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

34. The government may not deprive a person of life, liberty, or property 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 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

35. Petitioner has a fundamental interest in liberty and being free from official restraint.

36. The government’s detention of Petitioner without a bond redetermination hearing to determine whether they are a flight risk or danger to others violates the right to due process.

37. The government’s *ultra vires* detention of Petitioner without a warrant violates his Fifth Amendment due process rights because issuance of a warrant by the Attorney General is prescribed by statute to justify discretionary detention under § 1226(a).

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Immediately issue an order restraining and enjoining Respondents from moving Petitioner outside of this judicial district until this action is decided;
- (3) Issue a temporary stay of Petitioner's removal until this action is decided;
- (4) Declare ICE's July 8 policy and the BIA's *Matter of Yajure Hurtado* decisions unlawful;
- (5) Issue a writ of habeas corpus clarifying that the statutory basis for Petitioner's detention is 8 U.S.C. § 1226(a) and that 8 U.S.C. § 1225(b)(2)(A) does not apply to Petitioner;
- (6) Issue a writ of habeas corpus requiring that Respondents release Petitioner immediately, and that if the government seeks to re-detain petitioner, it must provide no less than seven (7) days' notice to petitioner and must hold a pre-deprivation bond hearing before a neutral arbiter pursuant to section 1226(a) and its implementing regulations, at which petitioner's eligibility for bond must be considered and where the Government shall bear the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community or a flight risk, ; and
- (7) Fashion such additional relief as is necessary and appropriate, including declaratory relief or other interim relief necessary to vindicate Petitioners' rights under U.S. and international law.

Dated: January 15, 2026

/s/ Nilima Patel Shah

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner and submit this verification on Petitioner's behalf. 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: January 15, 2026

/s/ Nilima Patel Shah

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