

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

SATNAM SINGH,

*Petitioner,*

v.

KRISTI NOEM,

In her official capacity as Secretary  
of Homeland Security,

CHRISTOPHER J.

LAROSE,

in his capacity as Warden of the  
Otay Mesa Detention Center;

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.*

Civil Action No.

'26 CV0265 GPC BLM

Immigration No.



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

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### PRELIMINARY STATEMENT

1. Satnam Singh (“Mr. Singh”) is citizen of India who entered the United States without inspection on or about January 8, 2025 at or near San Ysidro, California. He claimed asylum based upon a fear of return to India due to political persecution. He was issued a Notice to Appear dated February 19, 2025 charging him with being an alien present in the United States who has not been admitted or paroled. See Exh. A, Notice to Appear. He has now been detained for over one year, and continues to fight his asylum claim in the administrative tribunal, facing immense delays due to the backlogs experienced by the Immigration Court system. He is presently detained in the custody of ICE ERO’s San Diego Field Office at the Otay Mesa Detention Center and has been denied an individualized bond hearing, in violation of his due process rights.

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. Even if Petitioner were properly detained under 8 U.S.C. § 1225, his prolonged detention of over one year would be in violation of his due process rights under the Fifth Amendment.

5. 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**

6. Petitioner is detained in the custody of ICE. He is being detained in the custody of the San Diego ICE Field Office at the Otay Mesa Detention Center, 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.

7. Respondent Christopher J. Larose is the Warden of the Otay Mesa Detention Center, a privately-owned and operated detention center owned by CoreCivic, Inc. He is the private citizen hired by a publicly-traded for-profit corporation to oversee the operations of that prison, and is therefore the individual who has direct physical authority over the Petitioner. His office is located at 7488 Calzada De La Fuente, San Diego, CA 92154

8. 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.

9. 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**

10. Petitioner is in the physical custody of Respondents and U.S. Immigration and Customs Enforcement ("ICE") at the Otay Mesa Detention Center in San Diego, 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**

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., 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.

12. 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**

13. This Court has personal jurisdiction over Petitioner's immediate custodian (who is physically within the district).<sup>1</sup>

### III. VENUE

14. 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 January 8, 2025 at or near San Ysidro, California.
2. He was issued a Notice to Appear (NTA) dated May 28, 2024, charging him with being an "alien present in the United States who has not been admitted or paroled." See Exh A.
3. 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.
4. He is presently detained in the custody of ICE ERO's San Diego Field Office at the Otay Mesa Detention Center.
5. Courts have recognized that the conditions at the Otay Mesa Detention Center are "indistinguishable from penal confinement." See *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 773

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<sup>1</sup> 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.

(S.D. Cal. 2020); *Amado v. United States Dep't of Just.*, No. 25-CV-2687-LL-DDL, 2025 WL 3079052, at \*6 (S.D. Cal. Nov. 4, 2025).

6. He has now been detained for over one year while he fights his asylum case. The immense backlogs of the Immigration Court system are getting worse.
7. Without relief from this Court, Petitioner faces the prospect of additional months, or even years, in immigration custody, as he continues to pursue his asylum claim in the administrative tribunal.

### **LEGAL FRAMEWORK WITH RESPECT TO BOND**

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

9. 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).

10. 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).

11. 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).

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

13. 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).

14. 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).

15. 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)).

16. 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.

17. 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.

18. 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.

19. 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).

20. 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.

21. 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].”

22. 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)).

23. 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.

24. 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).

25. 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.

26. 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. *See J.A.C.P. v. Wofford*, 2025 WL 3013328, at \*8; see also *Chogllo Chafila 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).

### **LEGAL FRAMEWORK WITH RESPECT TO PROLONGED DETENTION**

Even if Petitioner were properly classified as an arriving alien (which he is not, as evidenced by Respondents’ own classification of him in the Notice to Appear which he was issued), he has a Fifth Amendment due process right to an individualized bond determination.

In the wake of the Supreme Court’s decision in *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020), most district courts faced with the issue of the constitutionality of prolonged detention have opted for an as-applied approach. Specifically, while facial challenges to mandatory detention have been rejected, see *Demore v. Kim*, 538 U.S. 510, 530-31 (2003), nothing has been said “about whether due process may eventually require a hearing.” *Black v. Decker*, 103 F.4th 133, 149 (2d Cir. 2024) (emphasis in original). This is also true for *Thuraissigiam*. Though *Thuraissigiam* limits an arriving noncitizen’s due process rights

regarding admission, the court did not address the issue of prolonged detention. See *Padilla v. U.S. Immigr. & Customs Enft*, 704 F. Supp. 3d 1163, 1171 (W.D. Wash. 2023) (“Thuraissigiam’s discussion of due process is necessarily constrained to challenges to admissibility to the United States. This was the sole claim presented and the respondent expressly asked for a chance to reapply for asylum and admission.”).

Additionally, “the Supreme Court has . . . explicitly stated that as-applied constitutional challenges to 8 U.S.C. § 1226(c)[, which cover mandatory detention under that statute,] are not foreclosed.” *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No. 1:25-CV-00098-SAB-HC, 2025 WL 2099343, at \*5 (E.D. Cal. July 25, 2025). While the Ninth Circuit has not spoken on whether due process requires a bond hearing for noncitizens mandatorily detained, the First, Second, and Third Circuits, have held that “the Due Process Clause imposes some form of ‘reasonableness’ limitation upon the duration of detention . . . under [section 1226(c)].” *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (alterations in original) (citation omitted); see *Black*, 103 F.4th at 138; *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 209-10 (3d Cir. 2020). Though § 1225(b) was not specifically addressed by the Supreme Court or the three Circuit courts, § 1225(b) contains similar mandatory detention provisions to § 1226(c). Thus, the reasoning underlying this as-applied approach would seemingly transfer to § 1225(b).

Given this background, a majority of district courts have found prolonged detention under § 1225(b) without a bond hearing can eventually give rise to due process issues. See, e.g., *Sadeqi v. LaRose*, No. 25-CV-2587-RSH-BJW, 2025 WL 3154520, at \*2 (S.D. Cal. Nov. 12, 2025) (“This Court agrees with the majority position that a petitioner detained under Section 1225(b)(1) may assert a due process challenge to prolonged mandatory detention without a bond hearing.”); *Abdul-Samed v. Warden of Golden State Annex Det. Facility*, No. 25-cv-98-SAB-HC,

2025 WL 2099343, at \*6 (E.D. Cal. July 25, 2025) (“Although the Ninth Circuit has yet to take a position on whether due process requires a bond hearing for noncitizens detained under 8 U.S.C. § 1225(b)... ‘essentially all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, will—at some point—violate the right to due process.’”) (quoting *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 WL 5968089, at \*6 (W.D. Wash. May 23, 2019)); *Kydyrali v. Wolf*, 499 F. Supp. 3d 768, 772 (S.D. Cal. 2020) (“[T]he Court joins the majority of courts across the country in concluding that an unreasonably prolonged detention under 8 U.S.C. § 1225(b) without an individualized bond hearing violates due process.”); *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1116 (W.D. Wash. 2019) (collecting cases); *A.L. v. Oddo*, 761 F. Supp. 3d 822, 825 (W.D. Pa. 2025) (“Nowhere in [Thuraissigiam] did the Supreme Court suggest that arriving aliens being held under § 1225(b) may be held indefinitely and unreasonably with no due process implications, nor that such aliens have no due process rights whatsoever.”).

In *Cong v. Noem*, No. 25-cv-3730-GPC-DEB (S.D. Cal. January 9, 2026), this Court applied *Banda v. McAleenan*’s six-factor analysis as a framework, which weighs: (1) total length of detention to date; (2) likely duration of future detention; (3) conditions of detention; (4) delays in the removal proceedings caused by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the likelihood that the removal proceedings will result in a final order of removal. *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019). See also *Sadeqi v. LaRose*, -- F. Supp. 3d --, No. 25-CV-2587-RSH-BJW, 2025 WL 3154520, at \*3 (S.D. Cal. Nov. 12, 2025) (applying the *Banda* factor analysis to a prolonged detention claim).

## CLAIMS FOR RELIEF

### COUNT 1: VIOLATION OF THE INA

27. 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.

28. 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.

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

30. 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

31. 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.

32. 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.” *Zadvvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

34. 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.

### 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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