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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

HARJIT SINGH, an individual,
Petitioner,
v.

PAM BONDI, in her official capacity as Attorney General; KRISTI NOEM, in her official capacity as the Secretary of the Department of Homeland Security; TODD LYONS, in his official capacity as Director of U.S. Immigration and Customs Enforcement; ORESTES CRUZ, in his official capacity as the San Francisco Field Office Acting Director, U.S. Immigration and Customs Enforcement and Removal Operations; CHRISTOPHER CHESTNUT, in his official capacity as the Warden of the California City ICE Detention Center; AND DOES 1 through 50, INCLUSIVE,
Defendants.

Case No.:

PETITION FOR HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATIVE RELIEF

IMMIGRATION HABEAS CASE

INTRODUCTION

Petitioner Harjit Singh ("Petitioner" or "Harjit"), is a citizen of India and is currently detained at the California City Detention Facility (aka California City ICE Processing Center) ("CCDC") since December 11, 2025. An Immigration Judge ordered him removed and he timely filed an appeal with the Board of Immigration Appeals ("BIA") which remains pending at this time. Therefore, his detention is not reasonably related to its statutory purpose. Additionally, he was unlawfully denied bond because of the Respondents' failure to properly interpret and apply the Immigration and Nationality Act ("INA"). Because he is likely to face many additional months in detention, he seeks relief from this Court that would allow him to challenge his continuing, lengthy and unconstitutional detention.

JURISDICTION AND VENUE

1. Petitioner is in the physical custody of the Respondents and U.S. Immigration and Customs Enforcement ("ICE"), an agency within the U.S. Department of Homeland Security ("DHS"). He is detained at the California City Detention Facility in California City, California and is under the direct control of Respondents and their agents.

2. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; 5 U.S.C. §§ 701 et seq., the Administrative Procedure Act ("APA"); Habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension Clause); the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.; and the common law. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et seq. and the Writs Act, 28 U.S.C. § 1651.

3. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001). 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)

(holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

4. This Court must have jurisdiction under the Suspension Clause, notwithstanding statutory provisions that otherwise deprive the Courts of jurisdiction over execution of removal orders, to review the actions of the executive branch's enforcement of the immigration laws if those actions violate the Constitution by depriving Petitioner of due process or other constitutional rights. See Suspension Clause with 8 U.S.C. § 1252(g); *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *Thuraissigiam v. U.S. Department of Homeland Security*, 917 F.3d 1097, 1118-19 (9th Cir. 2019). The Suspension Clause protects the right to the writ of habeas corpus where, as here, no adequate or effective alternative remedy exists. See *Boumediene v. Bush*, 553 U.S. 723 (2008).

5. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the San Francisco Office of the ICE, which is in the jurisdiction of the Northern District of California; and there is no real property involved in this action. See *Braden c. 30th Judicial Circuit Court of Kentucky,* 410 U.S. 484, 493-500 (1973).

PARTIES

6. Petitioner Harjit Singh is a citizen of India, who arrived in the United States on or around June 22, 2013. He has been in the custody of the DHS at the California City ICE Detention Facility in California City since December 11, 2025. Since that time, he has sought relief from removal in his immigration court case and with the United States Customs and Immigration Service ("USCIS").

7. Respondent Pamela Bondi, the Attorney General, is the highest-ranking official within the Department of Justice ("DOJ"). Respondent Bondi, has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. Respondent Bondi is sued in her official capacity to the extent that 8 U.S.C. § 1102 gives her authority over immigration law.

8. Respondent Kristi Noem, the Secretary of the DHS, is the highest-ranking official within the DHS. Respondent Noem, by and through her agency for the DHS, is responsible

for the implementation of the INA, and for ensuring compliance with applicable federal law. Respondent Noem is a legal custodian of Petitioner and is sued in her official capacity as an agent of the government of the United States.

9. Respondent Todd Lyons if the acting Director or U.S. ICE. He has authority over the actions of ICE in general. He is also a legal custodian of Petitioner and is sued in his official capacity as an agent of the government of the United States.

10. Respondent Orestes Cruz is the Acting Director of the San Francisco District Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security. As such, Mr. Cruz is Petitioner's immediate custodian and is sued in his official capacity as an agent of the government of the United States.

11. Respondent Christopher Chestnut is the warden at the California City Detention Center. He is in charge of Petitioner's place of custody and is sued in his official capacity as an agent of the government of the United States.

12. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

13. Respondent U.S. ICE 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.

FACTUAL ALLEGATIONS

14. Petitioner, Harjit Singh is a native and citizen of India. He has resided continuously in the United States since June 2013. He has a U.S. citizen spouse – REETU RAJ and a U.S. citizen biological daughter – G[redacted]

15. Petitioner first entered the United States on or around June 22, 2013 at or near Hidalgo, Texas without inspection. He has remained in the United States for more than twelve years.

16. On or around July 23, 2013, DHS issued a Notice to Appear and was released from detention.

17. On June 19, 2014, Petitioner filed his claim pending for asylum, withholding of removal, and protections under the convention against torture.

18. On June 28, 2023, Respondent appeared in the Immigration Court in New York for his final merits hearing. The immigration judge denied Petitioner's claims for asylum, withholding of removal, and protections under the convention against torture.

19. On or around October 10, 2023, Petitioner filed the Form EOIR-26 – Notice of Appeal from a Decision of an Immigration Judge with the Board of Immigration Appeals ("BIA"). This appeal remains pending at this time.

20. Petitioner has no criminal history, and has no gang association. Except for the arrest by Customs and Border Protection ("CBP") in 2013 (at the time of initial entry) and the latest arrest by Immigration Customs and Enforcement ("ICE"), Petitioner has never been arrested by any other law enforcement agency in the United States or anywhere else.

21. Petitioner entered into a bona fide marriage with Mrs. Reetu Raj – a U.S. citizen on April 30, 2024. His U.S. citizen spouse filed the Form I-130 – Petition for Alien Relative with USCIS, which remains pending at this time. Petitioner and his U.S. citizen spouse were blessed with a U.S. citizen biological daughter – G[redacted] on [redacted] 2025. Since their marriage, Petitioner and his U.S. citizen family have continuously lived at [redacted]

22. At this time, Petitioner's U.S. citizen spouse is 11-weeks pregnant. Because of Harjit's unwarranted detention, Reetu has had to become a primary caregiver of a 10-month-old infant while being pregnant.

23. Harjit did not come into ICE custody following a criminal arrest. Rather, he was arrested from his home. Once ICE arrived at his residence, he fully complied with the directions of the ICE officers.

24. Petitioner has been deprived of liberty since his warrantless seizure in Sacramento, California on December 11, 2025 despite a (1) pending appeal with BIA; (2) the pending family-based petition with USCIS; and (3) absence of any criminal immigration-law violation that would justify detention or removal.

25. The background checks conducted by ICE and CBP show that NGI, NCIC, and TECS checks were negative.

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LEGAL FRAMEWORK

DUE PROCESS CLAUSE

26. 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* at 690.

27. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

28. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, Id. § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

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 protections" 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 (internal quotation marks omitted).

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. *Id.; Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.

32. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires

an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249- 50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

33. Courts have found that automatic detention pending appeal "after a judicial officer has determined that release is appropriate," where the government has made no "showing of dangerousness or flight risk," "renders the continued detention arbitrary" and "raises a substantial Fifth Amendment claim." *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025). Whilst this case is in the context of the automated stay of bond on appeal, the same reasoning applies here: "… no special justification exists that outweighs the individual's constitutionally protected interest in avoiding physical restraint . . ." *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004).

34. Courts that apply a reasonableness test have considered three main factors in determining whether prolonged detention is reasonable. First, courts have evaluated whether the noncitizen has raised a "good faith" challenge to removal—that is, the challenge is "legitimately raised" and presents "real issues." *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a "function of the length of the detention," with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78; *accord Sopo*, 825 F.3d at 1217-18. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention, when the parties could "have reasonably predicted that Chavez-Alvarez's appeal would take a substantial amount of time, making his already lengthy detention considerably longer"); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

35. Due process also requires certain minimal procedures at bond hearings. First, the government must bear the burden of proof by clear and convincing evidence to justify

continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen's ability to pay a bond when determining the appropriate conditions of release.

36. 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). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by clear and convincing evidence. *See United States v. Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a "full-blown adversary hearing," requiring "clear and convincing evidence" before a "neutral decisionmaker"); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee); see also *Padilla v. Immigration & Customs Enf't*, 379 F. Supp. 3d 1170 (W.D. Wash. 2019) (requiring the government to bear the burden of proof for class members who receive bond hearings after being found to have a credible fear of persecution or torture); *Banda v. McAleenan*, 385 F. Supp. 3d 1120-21 (in case of arriving asylum seeker, government must bear burden of proof to justify continued detention after noncitizen had been detained for more than 18 months).

37. 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).

38. 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; *see also Foucha*, 504 U.S. at 80 ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted).

39. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding" including that "parents subject to termination

proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). 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. *See infra* ¶ 66.

40. 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.

41. In light of these considerations, "[t]he overwhelming majority of courts to consider the question . . . have **concluded that imposing a clear and convincing standard would be most consistent with due process.**" *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

42. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty and family unity is paramount; the Government's blanket detention policy under *Yajure Hurtado* creates an extreme risk of erroneous deprivation by denying him any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means. Accordingly, due process requires an individualized bond hearing under § 1226(a).

43. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). It follows those alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

44. Due process likewise requires consideration of a noncitizen's ability to pay a bond. "Detention of an indigent 'for inability to post money bail' is impermissible if the individual's 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Id.* at

990 (quoting *Pugh v. Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the appropriate conditions of release for immigration detainees, due process requires "consideration of financial circumstances and alternative conditions of release" to prevent against detention based on poverty. *Id.*

45. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.

46. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez*, 783 F.3d at 478; *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. "And in some cases[,] the conditions of their confinement are inappropriately poor." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

47. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention pose for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.

48. Here, the Respondents can neither show that the continued detention of petitioner following his arrest in December of 2025 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 pending an appeal of a decision on termination of removal proceedings.

49. Petitioners' continued detention violates the Immigration and Nationality Act (INA) and is therefore unlawful. The government asserts authority to detain him under INA § 236(a), which states:

> "[A]n alien may be arrested and detained *pending a decision* on whether the alien is to be removed from the United States." INA § 236(a) (emphasis added).

By its plain text, the statute authorizes detention only up until the moment a decision

is made. Once a decision is rendered, detention authority ends. The adjacent statutory provision governing removal proceedings confirms what qualifies as a "decision":

> "At the *conclusion* of the proceeding the immigration judge shall *decide* whether an alien is removable from the United States." INA § 240(c)(1) (emphasis added).

Furthermore, neighboring provisions, including INA § 240(c)(3) mandates that "[n]o decision on deportability shall be valid unless it is based upon reasonable, substantial, and probative evidence." And under 8 C.F.R. § 1240.12(a), "the decision shall be concluded with the order of the immigration judge." Taken together, these provisions leave no doubt: once an Immigration Judge concludes proceedings and issues a ruling, DHS's detention authority under § 236(a) is extinguished.

50. That is exactly what happened here. On September 26, 2023, the Immigration Judge issued a written decision denying Petitioner's claims. Petitioner timely filed an appeal, which remains pending. The delay in adjudication of the appeal is outside Petitioner's control. No statutory basis exists for DHS to continue holding Harjit in civil immigration detention.

51. While 8 C.F.R. § 1236.1(b) suggests that the government may detain a respondent "up to the time removal proceedings are completed," that regulation is inconsistent with the statute. It attempts to define the end of proceedings by reference to the entry of a final order of deportation under INA § 101(a)(47)(B)(i), rather than the issuance of a "decision" under INA § 240(c). But that is not how Congress drafted § 236(a). The statute references a "decision," not a final order. When Congress includes particular language in one section of a statute and omits it in another, it is presumed to have done so intentionally. *Kucana v. Holder*, 558 U.S. 233, 249 (2010).

52. By contrast, INA § 101(a)(47)(B)(i) defines when an "order of deportation" becomes final — namely, "upon… a determination by the Board of Immigration Appeals affirming such order." But § 236(a) does not incorporate that standard. Instead, Congress used a different, earlier marker: the decision of the immigration judge. Thus, even if the BIA were to later reverse the IJ's order, that possibility does not revive DHS's detention authority under § 236(a). Statutory authority cannot be preserved through mere speculation about a future administrative reversal. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

53. INA § 236(a) allows detention only to facilitate the removal process; it does not allow DHS to hold individuals in prolonged civil custody based on delayed adjudication of an appeal on a decision already rendered.

54. Similarly, courts have ruled that automatically stayed release from detention is a violation of the Fifth Amendment. *See Mohammed H. v. Trump,* 781 F. Supp. 3d 886, 895 (D. Minn. 2025) (finding that it "does not require any showing of dangerousness or flight risk. Nor is it subject to immediate review by an immigration judge. It operates by fiat and has the effect of prolonging detention even after a judicial officer has determined that release on bond is appropriate. That mechanism's operation here—in the absence of any individualized justification—renders the continued detention arbitrary as applied. Cf. *Zadvydas*, 533 U.S. at 699–700, 121 S.Ct. 2491 (recognizing that removal must be reasonably foreseeable for continued post-removal detention to remain reasonable); *Bridges*, 326 U.S. 135, 152–53, 65 S.Ct. 1443 (administrative rules are designed to afford due process and to serve as "safeguards against essentially unfair procedures"). Without introducing evidence, the Government has wholly deprived Petitioner of notice and the chance to rebut its case for continued detention. *Mathews*, 424 U.S. at 348–49, 96 S.Ct. 893 ("The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it.").

8 USC 1225 v 1226

55. Full removal proceedings under 8 U.S.C. § 1229a are "the standard mechanism for removing inadmissible noncitizens." *Make the Rd. N.Y. v. Noem*, No. 25-cv-190 (JMC), 2025 WL 2494908, at *2 (D.D.C. Aug. 29, 2025); *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020) ("The usual removal process involves an evidentiary hearing before an immigration judge, and at that hearing an alien may attempt to show that he or she should not be removed."). These proceedings are initiated by serving the noncitizen with a Form I-862 "notice to appear" in immigration court. 8 U.S.C. § 1229(a)(1).

56. Full removal proceedings "take place before an [immigration judge ("IJ")], an employee of the Department of Justice (DOJ) who must be a licensed attorney and has a duty to develop the record in cases before them." *Coal. for Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (JMC), —— F.Supp.3d ——, ——, 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025) (citing 8 U.S.C. § 1229a(a)(1), (b)(1)).

57. In full removal proceedings, noncitizens have rights to hire counsel, to a reasonable opportunity to examine evidence against them, to present evidence on their own behalf, and to cross-examine any government witnesses. 8 U.S.C. § 1229a(b)(4)(A)–(B). "[D]ue to the built in procedures," full removal proceedings "typically take[ ] place over the course of multiple hearings," which "allows time for noncitizens to both gather evidence in support of petitions for relief available in immigration court ... and seek collateral relief from other components of [the Department of Homeland Security ("DHS")]." *Coal. for Humane Immigrant Rts.*, —— F.Supp.3d at ——, 2025 WL 2192986, at *3.

58. Accordingly, "[w]hen a person is apprehended under § 1226(a), an ICE officer makes the initial custody determination." *Rodriguez Diaz v. Garland,* 53 F.4th 1189, 1196 (9th Cir. 2022) (citing 8 C.F.R. § 236.1(c)(8)). If the detainee disagrees with the officer's determination, they "may request a bond hearing before an IJ at any time before a removal order becomes final." *Id.* at 1197 (citing 8 C.F.R. §§ 236.1(d)(1), 1003.19). The procedural posture progresses and the detainee must then "establish to the satisfaction of the Immigration Judge . . . that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight." *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017) (quoting *In re Guerra*, 24 I. & N. Dec. 37, 38 (B.I.A. 2006)). Appeal on an adverse decision is available with the BIA. *Id.* at 983 (citing § 236.1(d)(3)).

59. 8 U.S.C. § 1225 enumerates the procedures allowing the government to detain (mandatory detention) certain "applicants for admission." Under § 1225, an "applicant for admission" is a noncitizen "present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). INA § 1225(b)(1) authorizes expedited removal for certain "applicants for admission" in two categories. First, noncitizens "arriving in the United States" that are determined by an immigration officer to be inadmissible due to misrepresentation or failure to meet documents requirements. *Id.* at § 1225(b)(1)(A)(i); *see also id.* at § 1182(a)(6)(C), (a)(7). Second, noncitizens that (a) are inadmissible because of misrepresentation or failure to meet documents requirements; (b) have not "been admitted or paroled into the United States"; (c) have not "affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of

inadmissibility"; and (d) have been designated by the Attorney General for expedited removal. *Id.* at § 1225(b)(1)(A)(iii).

60. 8 U.S.C. § 1226 "provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). The provision "distinguishes between two different categories" of noncitizens. *Jennings*, 583 U.S.

61. These two categories of noncitizens subject to § 1225(b)(1) are subject to mandatory detention "until certain proceedings have concluded." *Jennings*, 583 U.S. at 297. Individuals that fall into § 1225(b)(1) are "normally ordered removed 'without further hearing or review' pursuant to an expedited removal process" unless claiming asylum or a fear of persecution. *Jennings,* 53 U.S. at 287 (first quoting § 1225(b)(1)(A)(i); then citing § 12(b)(1)(A)(ii)).

62. Noncitizens who are "seeking admission" and not covered by the expedited removal provisions in § 1225(b)(1) are subject to § 1225(b)(2). *See Id.* At 287. This category would include, for example, noncitizens who are arriving in the United States, seek admission, and are inadmissible for some reason other than misrepresentation or failure to meet documents requirements. *See* 8 U.S.C. § 1182(a)(2)–(3). Subject to limited exceptions, the § provides that such noncitizens "shall be detained" for full removal proceedings under § 1229a "if the examining immigration officer determines" that the noncitizen "is not clearly and beyond a doubt entitled to be admitted." *Id.* at § 1225(b)(2)(A).

63. Under § 1226(a), the "default rule," *Id.*, a noncitizen "may be arrested and detained" "[o]n a warrant issued by the Attorney General" if their removal proceedings are pending, 8 U.S.C. § 1226(a). **Detention pursuant to § 1226(a) is not mandatory. If the noncitizen was not charged with, arrested for, or convicted of certain criminal offenses enumerated in § 1226(c), the government has discretion to release them on "bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or ... conditional parole."** *Id.* at § 1226(a)(2)(A)–(B).

64. Until this year, DHS has applied § 1226(a) and its discretionary release and review of detention "to the vast majority of noncitizens allegedly in this country without valid documentation"—a practice codified by regulation. *Salcedo Aceros,* 2025 WL 2737503, at *3.

65. The Government now contends that mandatory detention under § 1225 is the

appropriate detention authority for noncitizens, such as petitioner, who have not been admitted or paroled. *See Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (citing *Torres v. Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

66. In recent weeks, several district courts have held that the Government's new, and more expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect on the basis that this reading of the statute would render 1226(c) inoperable or moot. *See*, e.g., *Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).

67. Petitioner argues any appeal to the Immigration Judge or the Board of Immigration Appeals would be futile considering a September 5, 2025, BIA decision where the BIA adopted DHS' interpretation of the INA as mandating detention without bond for millions of noncitizens who reside in the U.S. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA's decision held that immigration judges lack jurisdiction to hold bond hearings or grant bond to all individuals charged with entering the country without inspection. *Id.*

68. The Court should find administrative exhaustion would be futile. *See Vasquez-Rodriguez v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021) ("where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required."). BIA decisions are binding on immigration judges, and *Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like petitioner to hold a custody redetermination hearing. Therefore, judicial intervention enjoining Respondents from preventing petitioner from having a bond hearing pursuant to the holding in *Hurtado* is necessary to enable petitioner to avail herself of her administrative remedies.

69. Therefore, the Court should consider the merits of the Petition.

CLAIM FOR RELIEF

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Bond Hearings

70. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

71. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to

noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

72. Nonetheless, the Adelanto Immigration Court IJs have a policy and practice of applying § 1225(b)(2) to the Petitioner and did so during his bond hearing.

73. The application of § 1225(b)(2) to Petitioner violates the Immigration and Nationality Act.

Violation of the Administrative Procedure Act Unlawful Denial of Bond

74. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

75. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

76. Nonetheless, the Adelanto Immigration Court IJs have a policy and practice of applying § 1225(b)(2) to Petitioner.

77. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

Unconstitutional Detention in Violation of the Fifth Amendment

78. "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).

79. 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); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

80. Neither community protection nor flight risk applies to the Petitioner, and therefore,

the detention no longer bears a reasonable relation to the purpose for which it was committed. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Petitioner's removal proceedings are ongoing. There is a pending appeal for a removal order. To the contrary, the Petitioner is also a beneficiary of a family-based immigration petition currently pending with USCIS.

81. These cumulative actions render his detention even more constitutionally suspect, as they reflect punitive conduct rather than civil processing.

82. Accordingly, Petitioner's continued detention, in the absence of removal authority and contrary to DHS's own findings, constitutes a deprivation of liberty without due process of law. The Court should order his release.

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 Harjit's detention is not justified because the government has not established by clear and convincing evidence that he 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 Harjit's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;

7. 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;

8. In the alternative, should the Court determine that immediate release is not

warranted, order Respondents to provide Harjit 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;

9. 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

10. Grant such other and further relief as the Court deems just and proper.

Dated: January 14, 2026

ACQUEST LAW

/s/ Nareshwar Singh Virdi
Nareshwar S. Virdi
Acquest Law Inc.
Attorneys for the Petitioner
Harjit Singh

EXHIBIT LIST

Exhibit A:	Copy of the Bond Packet
Exhibit B:	Copy of the Notice to Appear
Exhibit C:	Copy of the Form I-589 – Application for Asylum, Withholding of Removal, and Relief under the Convention Against Torture
Exhibit D:	Copy of the Form EOIR-26 – Notice of Appeal timely filed with BIA
Exhibit E:	Copy of the USCIS Receipt for Form I-130
Exhibit F:	Copy of the FBI Clearance Report for Petitioner – Harjit
Exhibit G:	Copy of Petitioner's Credible Fear Interview after which he was released on bond of $14,000