UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DIPAKKUMAR D. PATEL Petitioner, v. Arthur WILSON, Field Office Director of Enforcement and Removal Operations, Newark Field Office, IMMIGRATION AND CUSTOMS ENFORCEMENT; Kristi NOEM, Secretary, U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; John TSOUKARIS, Warden of DELANEY HALL DETENTION FACILITY. Respondents.	Case No. **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Dipakkumar D. Patel brings this petition for a writ of habeas corpus to seek enforcement of his rights.

2. Petitioner last known detention location was in the physical custody of Respondents at the Delaney Hall Detention Facility in Newark, New Jersey.

3. At the time of his detention at the Delaney Hall Detention Facility, the Petitioner was still in a deferred action status as a derivative husband of a bona fide determination for a U Visa granted to his wife, Dipitaben Patel.

4. The Petitioner also had a pending Motion to Reopen (MTR) at the Executive Office for Review's (EOIR) Board of Immigration Appeals (BIA) based on changed country conditions in India and sought to reapply for asylum and withholding of removal to India.

5. However, the BIA purposely left off Dipikkumar Patel's name from the recent denial of the Motion to Reopen for his wife, because they purposely left his name off of the Motion to Reopen when they received it (November 7, 2025), notwithstanding that his name and alien registration number were included. This shows consciousness of guilt by the BIA and a coordinated effort by all of the Respondents to not log in the Petitioner's name to his MTR on November 7, 2025 before his removal on by the Respondents on November 24, 2025.

6. While at Delaney Detention Hall, the Petitioner was coerced into signing a document agreeing to be removed. The Petitioner was told by DHS Officers and agents thereof that he would never be released from custody if he did not agree to sign the paperwork presented to him.

7. Regardless of the coercive tactics and untrue statements made by the DHS and their agents, the Petitioner. He was also still in deferred action status at the time of his removal,

deferring his removal from the United States. He also had a pending Motion to Reopen at the BIA and a pending T Visa application.

8. Nonetheless, the Department of Homeland Security (DHS) and its subagency Immigration and Customs Enforcement (ICE) have blatantly refused to abide by the *New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status,* 72 Fed. Reg. 53014 (Sep. 17, 2007) at 53033 and 8 CFR 214.14(d)(2), and removed the Petitioner illegally from the United States on or about November 24, 2025.

9. The Department of Homeland Security (DHS) did not comply with the Petitioner's due process rights as the Petitioner's wife responded to the Notice of Intent to Deny the U Visa for the Petitioner's wife, which remains pending at this time. Therefore, the Petitioner's deferred action status remained in effect at the time of his removal, and his removal was illegal.

10. Deferred action is generally a discretionary determination to defer removal of an individual as an act of prosecutorial discretion. *See,* 8 CFR 236.21-236.25.

11. However, with respect to U Visas Congress stated that U visa parole and deferred action is mandatory and not discretionary, stating in pertinent part: "USCIS **will** ***grant deferred action or parole*** to U-1 petitioners and qualifying family members while the U-1 petitioners are on the waiting list." *See,* 8 CFR 214.14(d)(2). **The phrase "will grant" is the key; this mandatory language means shall** and entitles WL members who are within the United States to deferred action while WL members abroad are entitled to parole. Deferred Action for U Visa applicants is not discretionary. And deferred action therefore for U Visa waiting list applicants must be provided to Petitioners.

12. Because this form of deferred action is mandatory, to take deferred action status away from these particular U Visa applicants, full due process must be accorded first. In this matter, the applicant still maintained deferred action status on the date that he was removed from the United States, which deferred his removal.

13. An individual who has received deferred action is authorized by DHS to be in the United States for the duration of the deferred action period.

14. Deferred action recipients are also considered to be lawfully present as described in 8 C.F.R. sec. 1.3(a)(4)(vi) for purposes of eligibility for certain public benefits (such as certain Social Security benefits) during the period of deferred action.

15. The Court should expeditiously grant this petition as the Petitioner was lawfully present in the United States and his removal was deferred, yet ICE removed him nonetheless in a flagrant abuse of the law and regulations.

16. Respondents are bound by the Immigration and Nationality Act and the corresponding regulations found in Title 8 of the Code of Federal Regulations.

17. Nevertheless, Respondents flagrantly defied the INA and 8 C.F.R. and subjected the Petitioner to unlawful detention despite his clear entitlement to consideration **for release on** bond as a Deferred Action recipient who removal has been deferred and who by the INA and 8 C.F.R. is considered to be lawfully present ion the United States.

18. DHS Officers and their agents informed the Petitioner that he had to sign a document that was only in the English language agreeing to be removed from the United States or that he would remain in custody forever. He did not understand the written document and did not believe that the DHS Officers would remove him because he was still in deferred action status and he also had a pending Motion to Reopen based on changed country conditions for

asylum and withholding of removal at the BIA and a pending T Visa as a victim of a severe form of trafficking.

19. Unbeknownst to the Petitioner, DHS Officers and agents have been instructed by "leadership"[1] that noncitizens are not entitled to due process of law and that they would bypass contacting noncitizens attorneys or abiding by U Visa deferred action status laws.

20. Because the Petitioner was illegally detained and removed in violation of the *New Classification for Victims of Criminal Activity; Eligibility for "U" Nonimmigrant Status,* 72 Fed. Reg. 53014 (Sep. 17, 2007) at 53033 and 8 CFR 214.14(d)(2), the Court should accordingly order that within one-week, Respondent DHS and ICE must produce the Petitioner in this court by locating him in India and bringing back to the United States.

21. The Petitioner also has a pending Form I-914, Application for a T Visa, as a severe victim of human trafficking and labor trafficking. This visa application was also pending with the DHS at the time of the Petitioner's illegal removal from the United States. It has been pending for over 45 days and during all of 2025, DHS has refused to issue timely receipt notices for Victim Visas to include U and T applications. Therefore, this court should also order that the DHS produce the Form I-914 Receipt Notice for this Petitioner and his family within one week.

22. Additionally, based on the flagrant violations of due process and the illegal removal of the Petitioner to a country that he fears persecution while he had[2] a pending Motion

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[1] Steven Miller, Trump's deputy chief of staff for policy wrote on Elon Musk's social media platform: "The right of 'due process' is to protect citizens from their government, not to protect foreign trespassers from removal. Due process guarantees the rights of a criminal defendant facing prosecution, not an illegal alien facing deportation."

[2] The BIA purposely left off Dipikkumar Patel's name from the recent denial of the Motion to Reopen for his wife, because they purposely left his name off of the Motion to Reopen when they received it (November 7, 2025), notwithstanding that his name and alien registration number were included. This shows conscious of guilt by the BIA and a coordinated effort to not log in the Petitioner's name to his MTR on November 7, 2025 before his removal on November 24, 2025.

to Reopen at the BIA to reapply for asylum and withholding of removal based on changed country conditions in India, the Court should order Petitioner's release upon the production of his physical body in the United States within one day of their returning him to the United States.

JURISDICTION

23. Petitioner last known location of his detention was in the physical custody of Respondents. The Petitioner was detained at the Delaney Detention Facility in Newark, New Jersey.

24. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

25. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

26. 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 New Jersey**, the judicial district of the last known detention location of the Petitioner.

27. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in **the Newark District.**

28.

REQUIREMENTS OF 28 U.S.C. § 2243

29. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues of deferred action for U Visa applicants as mandatory, has previously been resolved in this court.

30. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

31. Petitioner Dipakkumar D. Patel is a citizen of India who has been in immigration detention since late October 2025. After Petitioner was arrested in Newark, New Jersey, ICE did not set a bond, and Petitioner was told that he did not have the right to request a bond hearing so that an Immigration Judge could review ICE's decision regarding his custody. Petitioner has resided in the United States since February 2022.

32. Petitioner has been in deferred action status since 2024. When Petitioner complied with a report-in at on a Saturday at ICE in Newark, New Jersey, he was detained despite his deferred action status and his legal right to be in the United States.

33. Respondent, Arthur Wilson, is the Director of the Newark Field Office of ICE's Enforcement and Removal Operations Division. As such, Arthur Wilson was Petitioner's immediate custodian and is responsible for Petitioner's detention and his subsequent illegal removal. He is named in his official capacity.

34. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

35. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

36. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the Board of Immigration Appeals operates as component agencies. She is sued in her official capacity.

37. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings including bond hearings and also for adjudicating motions to reopen pending before the Board of Immigration Appeals (BIA).

38. Respondent, John Tsoukaris, is employed by Geo Group Incorporated as Warden of the Delaney Hall Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

CLAIM FOR RELIEF
Violation of the INA:

39. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

40. By statute, USCIS has a mandatory obligation to provide employment authorization and deferred action status to aliens with pending, bona fide U nonimmigrant status petitions.

41. In June 2021, USCIS implemented the bona fide determination process. The bona fide determination process was created with the goal of conducting initial reviews of U nonimmigrant status petitions more efficiently and providing eligible victims of qualifying crimes with employment authorization and deferred action while they await a final adjudication of their petition for U nonimmigrant status under the annual statutory cap. This will provide victims with stability and better equip them to cooperate with and assist law enforcement.[3]

42. USCIS first determines whether a principal petitioner living in the United States may receive a bona fide determination (BDF) for an employment authorization document (EAD) and deferred action before making a bona fide determination for any associated qualifying family member living in the United States. USCIS determines whether a principal petition is bona fide if an officer finds that:

a. The principal petitioner properly filed Form I-918;
b. The principal petitioner included a properly completed law enforcement certification (Form I-918B U Nonimmigrant Status Certification);
c. The principal petitioner included a personal statement describing the facts of the victimization; and
d. USCIS has received the results of the principal petitioner's background and security checks based on biometrics. *Id.*

43. USCIS then considers whether the principal petitioner with a bona fide petition merits a favorable exercise of discretion to be granted a bona fide determination EAD and deferred action. *Id.*

[3] National Engagement - U Visa and Bona Fide Determination Process - Frequently Asked Questions | USCIS

44. Once the principal petitioner receives employment authorization and deferred action, USCIS will evaluate the petitions of any qualifying family members living in the United States. The principal petitioner must be issued employment authorization and deferred action before the petition for any qualifying family member may receive a bona fide determination. *Id.*

45. Additionally, a qualifying family member living in the United States is not guaranteed a bona fide determination EAD solely because the principal petitioner receives a bona fide determination EAD. The record must independently demonstrate the Form I-918, Supplement A, is bona fide. USCIS determines a qualifying family member's petition is bona fide when:

a. The principal petitioner receives a bona fide determination EAD; the petitioner has properly filed a complete Petition for Qualifying Family Member of U-1 Recipient (Form I-918, Supplement A);
b. The petition includes credible evidence of the qualifying family relationship; and
c. USCIS has received the results of the qualifying family member's background and security checks based upon biometrics.
d. As with principal petitioners, USCIS then considers whether the qualifying family member living in the United States merits a favorable exercise of discretion to be granted a bona fide determination EAD and deferred action. *Id.*

46. In this case, the petitioner is the qualifying family member of a principal petitioner who received a bona fide determination EAD and deferred action status. Thereafter, the petitioner was granted a bona fide determination EAD and deferred action himself.

47. On November 7, 2025, the petitioner filed a motion to reopen his removal proceedings based on changed country conditions to reapply for asylum and withholding of removal. At this time, the petitioner was detained in Newark, New Jersey at the Delaney Detention Facility.

48. On November 7, 2025, the ICE Office of the Principal Legal Advisor (OPLA) was served a copy of the BIA motion to reopen putting ICE on notice of the petitioner's motion to reopen based on changed country conditions to reapply for asylum and withholding of removal.

49. ICE OPLA's past practice has been to grant a stay of removal in their databases until such time as the changed country condition motion is ruled upon, because of the inherent danger in sending a petitioner back to a country where it is more likely than not they will face persecution upon return.

50. Section 1229a of Title 8 of the United State Code clearly permits consideration of these realities in the interests of protecting potential deportees from hostile country conditions. Courts and the BIA agree that if the country circumstances at the time of the motion to reopen would have qualified the petitioner for asylum given his status at the initial deportation hearing, it is appropriate to reopen proceedings.

51. A motion to reopen is an important statutory mechanism for people who have been ordered removed. See 8 U.S.C. § 1229a(c)(7). It allows these individuals to ask either the immigration judge (IJ) or the BIA to consider material and previously unavailable evidence and vacate the existing order. *See* 8 C.F.R. §§ 1003.2(c); 1003.23(b)(3). When an IJ or the BIA reopens a case, the existing removal order is vacated. *Nken v. Holder*, 556 U.S. 418, 429 n.1 (2009).

52. In addition to the general reopening statute at 8 U.S.C. § 1229a(c)(7), there are two other statutory provisions addressing specific bases for motions to reopen: (1) 8 U.S.C. §1229a(c)(7)(C)(ii), governing motions to apply for fear-based protection based on changed country conditions and (2) 8 U.S.C. § 1229a(c)(7)(C)(iv), governing special rule motions for qualifying survivors of domestic violence.

53. The Supreme Court recognizes that a "motion to reopen is an 'important safeguard' intended 'to ensure a proper and lawful disposition' of immigration proceedings."

Kucana v. Holder, 558 U.S. 233, 242 (2010) (quoting *Dada v. Mukasey*, 554 U.S. 1, 18 (2008)). Noncitizens have a statutory right to file one motion file one motion to reopen their case. *See Reyes Mata v. Lynch*, 576 U.S. 143, 145 (2015); *Dada,* 554 U.S. at 4-5.

54. The Respondents violated 8 U.S.C., also known as the Immigration and Nationality Act (INA), by removing the Petitioner while he was in deferred action status, had a pending T Visa based on his victimization of a severe form of trafficking and based ICE OPLA's past practice of staying the removal of individuals with a pending MTR at the BIA for changed country conditions to reapply for asylum and withholding of removal.

55. By removing the Petitioner with deferred action status, a pending T Visa and as pending MTR for changed country conditions, the Respondent's violated the Petitioner's due process rights and the right to have this court review his detention while in deferred action status.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that within one week, Respondents produce the physical body of the Petitioner in the United States by locating him and returning him to this jurisdiction;

c. Additionally, issue a writ of habeas corpus requiring Respondents to release Petitioner within one day of their returning him to the United States.

d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

e. Grant any other and further relief that this Court deems just and proper.

DATED this 18th day of January 2026.

Susan J. Hiller

Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon the attorneys of record by means of the Court's Electronic Case Filing system on January 20, 2026, and by U.S. Priority Mail to all of the foregoing parties:

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Dated: January 20, 2026

/s/ Susan J. Hiller
Susan J. Hiller, Attorney for Petitioner