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6 **UNITED STATES DISTRICT COURT**
Southern DISTRICT OF CALIFORNIA
7

8 **In the Matter of**)

9 **Singh, Sukhsagar**)

10 ~~XXXXXXXXXX~~)
Petitioner)

Motion for Temporary Restraining
Order Against Respondents

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14 **Warden of Imperial Regional Detention Facility,**)
Kristi Noem, Secretary of the U.S. Department)
of Homeland Security)
15 **Pamela Bondi, Attorney General of the United**)
States)
16 **U.S Immigration Customs Enforcement**)
U.S. Department of Homeland Security)
17 **In their official capacities**)
18 **Respondents**)

1 **I. INTRODUCTION**

2 1. Petitioner respectfully moves for a Temporary Restraining Order (“TRO”) pending
3 adjudication of his Petition for a Writ of Habeas Corpus. Petitioner requests the Court to
4 order Respondents to cease any ongoing action and refrain from taking any additional
5 actions toward effectuating Petitioner’s removal from the United States, until the Court
6 has adjudicated his petition and complaint. Absent immediate injunctive relief,
7 Respondents will likely remove or transfer Petitioner, causing irreparable harm. The
8 removal or transfer of Petitioner would permanently deprive Petitioner of access to this
9 Court and violate Due Process protections.
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13 **II. Statement of Facts**

- 14 2. Petitioner is currently detained at the Imperial Regional Detention Facility in Calexico,
15 CA.
- 16 3. Petitioner is a citizen and national of India. He entered the United States in or about June
17 13, 2023 through the southern border of Arizona, fleeing persecution and fearing for his
18 life due to his political opinions in India. Petitioner sought refuge in the United States for
19 the purpose of requesting asylum and related humanitarian protection.
- 20 4. Petitioner has no criminal history, has never posed a danger to the community, and has
21 demonstrated no flight risk. His detention is based solely on his immigration status and
22 not on any individualized finding of dangerousness or risk.
- 23 5. Respondents now seek to remove Petitioner from the United States without affording him
24 the procedural protections guaranteed by the Fifth Amendment, including a full and fair
25 hearing, meaningful consideration of his evidence, and access to judicial review sufficient
26 to test the legality of his detention and removal.
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1 6. Petitioner remains detained while removal is imminent, despite Respondents' failure to
2 provide constitutionally adequate procedures to ensure that his fear-based claims were
3 lawfully and fairly adjudicated.

4 7. These circumstances necessitate emergency injunctive relief.

5 8. On January 22, 2026, Petitioner filed a Petition for Writ of Habeas Corpus challenging the
6 legality of his detention.

7 9. Petitioner continues to face an imminent threat of removal.

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9 **III. ARGUMENT**

10 10. Where a party requests a TRO that enjoins governmental action, the party must
11 demonstrate that "he is likely to succeed on the merits, that he is likely to suffer
12 irreparable harm in the absence of the preliminary relief, that the balance of equities tip in
13 his favor, and that an injunction is in the public interest." *Winter v. Natural Resources*
14 *Def. Council, Inc.*, 555 U.S. 7, 20 (2008). Here, because Petitioner meets both the
15 irreparable harm and likelihood of success prongs, and because the requested relief is not
16 overly burdensome on Respondents, he merits such relief.

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18 **PETITIONER IS LIKELY TO SUCCEED ON THE MERITS**

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20 11. To satisfy that he is likely to succeed on the merits, Petitioner need demonstrate only a
21 reasonable probability or that "serious questions" going to the merits are raised. *Alliance*
22 *for the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134–35 (9th Cir. 2011). Petitioner meets
23 this standard.

24 12. Petitioner's habeas petition challenges the legality of his continued detention under 8
25 U.S.C 1226(a) and the Due Process Clause of the Fifth Amendment. He has no criminal
26 history, is seeking asylum, and has demonstrated compliance with all immigration
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1 proceedings. These facts support the finding that Petitioner's continued detention without
2 due process is unlawful.

3 13. Civil immigration detention must be reasonably related to its purpose and accompanied by
4 sufficient procedural protections. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

5 Constitutional due process limits remain fully applicable in such cases.

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7 14. Here, Petitioner has raised serious constitutional questions regarding prolonged detention
8 without having any criminal record and no flight risk. These claims are sufficient to show
9 that there is a likelihood of success in Petitioner's claim, or serious questions going to the
10 merits of Petitioner's claim.

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12 **PETITIONER WILL SUFFER IRREPARABLE HARM IF HE IS REMOVED**

13 15. Under the four-factor test, "a showing of irreparable harm is the single most important
14 prerequisite for the issuance of preliminary injunction. *Faiveley Transport Malmo AB v.*
15 *Wabtec Corp.*, 559 F.3d 110, 118 (2d Cir. 2009). Under this prong, Petitioner must show
16 that "but for the grant of equitable relief, there is a substantial chance that upon final
17 resolution of the action the parties cannot be returned to the position they previously
18 occupied." *Brenntag Int'l Chems., Inc. v. Bank of India*, 175 F.3d 245, 249 (2d Cir. 1999).

19 The harm must be "neither remote nor speculative, but actual and imminent." *Freedom*
20 *Holdings, Inc. v. Spitzer*, 408 F.3d 112, 114 (2d Cir. 2005).

21
22 **A. Removal Would Permanently Deprive Petitioner of Meaningful Habeas Review**

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24 Petitioner's removal from the United States would effectively moot this Court's
25 jurisdiction over the pending habeas petition. Courts have recognized that removal or transfer
26 during the pendency of a habeas action constitutes irreparable harm where it would prevent
27 meaningful judicial review. See *Leiva-Perez v. Holder*, 640 F.3d 962, 969–70 (9th Cir. 2011).

1 If Petitioner is removed from the United States by Respondents, Petitioner's ability to obtain
2 habeas relief would be irreparably impaired, if not entirely extinguished. Once removed,
3 Petitioner's ability to obtain habeas relief will be terminated.

4 **B. Removal Would Terminate Petitioner's Pending Asylum Application and**
5 **Statutory Right to Seek Protection**
6

7 Petitioner has an active and pending asylum application, and removal would result in the
8 immediate and irrevocable loss of his ability to pursue his claim for refuge and asylum. An
9 applicant for asylum must be physically present in the United States to seek relief. See 8
10 U.S.C. § 1158(a)(1).
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12 The loss of the opportunity to pursue statutory relief, particularly humanitarian protection
13 such as asylum, constitutes irreparable harm. If removed, Petitioner would be permanently
14 deprived of the opportunity to have his asylum claim adjudicated on the merits, a loss that
15 cannot be remedied by later judicial proceedings.

16 **C. Ongoing Detention Without Criminal History Constitutes Irreparable Liberty**
17 **Harm**
18

19 Petitioner is suffering irreparable harm through continued detention despite having no
20 criminal record and posing neither a danger to the community nor a flight risk. Loss of
21 physical liberty, even for brief periods, constitutes irreparable harm. *Rodriguez v. Robbins*,
22 715 F.3d 1127, 1144 (9th Cir. 2013). The deprivation of constitutional rights constitutes
23 irreparable injury for purposes of preliminary injunction analysis. *Melendres v. Arpaio*, 695
24 F.3d 990, 1002 (9th Cir. 2012).
25

26 Petitioner's detention is civil, not punitive, yet it continues to deprive him of liberty
27 without adequate procedural safeguards. Where a noncitizen with no criminal history is
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1 detained for prolonged periods while pursuing relief such as asylum, the harm is irreparable.

2 **D. Constitutional Violation Independently Establish Irreparable Harm**

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4 Petitioner's habeas petition raises serious constitutional claims, including violations of his
5 Fifth Amendment right to Due Process. Alleged violation of constitutional rights, by itself,
6 constitutes irreparable harm. *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

7 **THE BALANCE OF EQUITIES FAVOR PETITIONER**

8 16. The balance of equities weights in favor of the Petitioner. The Petitioner seeks narrowly
9 tailored relief to ensure meaningful judicial review. The Petitioner seeks protection
10 against removal or transfer that would undermine this Court's jurisdiction.

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12 17. Respondent's face little to no burden in temporarily refraining from removing or
13 transferring the Petitioner. Maintaining the Petitioner's current custodial status while the
14 decision of his Petition for a Writ of Habeas Corpus is pending imposes no undue
15 hardship on the government and does not interfere with their duties.

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17 18. Where the Petitioner faces loss of liberty and permanent deprivation of statutory and
18 constitutional rights, while the government faces only administrative inconvenience, the
19 equities favor injunctive relief. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017).

20 **THE PUBLIC INTEREST FAVORS PRESERVING JUDICIAL REVIEW**

21 19. The public interest favors ensuring that detention complies with constitutional and
22 statutory limitations and requirements. Courts have recognized that it is always in the
23 public interest to prevent the violation of a party's constitutional rights. *Melendres v.*
24 *Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012). The public has a compelling interest in
25 ensuring that asylum seekers are afforded vital access to the legal process Congress
26 established. The public also has an interest in courts retraining the ability to review
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1 executive actions. Preserving judicial review and oversight promotes the public's
2 confidence in the rule of law, as well as the integrity of the governmental agencies
3 involved in the immigration system. Granting this TRO would advance the public interest
4 by ensuring that Petitioner's claims are adjudicated fairly and lawfully.
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7 **IV. CONCLUSION**

8 20. Petitioner satisfies all four factors required for emergency injunctive relief. First, he faces
9 irreparable harm absent relief. Removal or transfer would moot his habeas claims,
10 terminate his pending asylum application, and result in ongoing deprivation of liberty
11 without meaningful process, harms that cannot be undone after the fact.
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13 21. Petitioner has demonstrated a likelihood of success on the merits, or at minimum, serious
14 questions going to the merits. His detention raises substantial constitutional concerns
15 under the Fifth Amendment, particularly given his lack of criminal history, pending
16 asylum claim, and the absence of individualized findings of dangerousness or flight risk.
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18 22. Third, the balance of equities weighs heavily in Petitioner's favor, he seeks only narrow
19 relief to preserve jurisdiction and maintain existing custodial conditions. By contrast,
20 Respondents face minimal burden in temporarily refraining from removal or transfer.

21 23. Finally, the public interest favors ensuring that asylum seekers receive meaningful access
22 to the judicial process, and that executive detention complies with constitutional and
23 statutory requirements and limitations.

24 24. For those reasons, Petitioner respectfully requests that the Court:

- 25 a. Issue a Temporary Restraining Order prohibiting Respondent from removing
26 Petitioner from the United States or transferring him outside the Southern District
27 of California.
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- b. Order Respondents to maintain Petitioner’s current custodial status pending further order of the Court;
- c. Issue an Order to Show Cause why a preliminary injunction should not issue; and
- d. Grant any relief the Court deems just and proper.

Respectfully Submitted,

Dated this 31 day of January, 2026.



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Attorney for Petitioner