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9 **UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA**

10 **SINGH, Vikramjit**

FILE NO.: 26-cv-0410-RSH-DDL

11 **Petitioner,**



12 **vs.**

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14 **CHRISTOPHER J. LAROSE, Senior**  
15 **Warden, Otay Mesa Detention Center;**  
16 **PATRICK DIVVER, Field Office**  
17 **Director, San Diego Office of Detention**  
18 **and Removal, U.S. Immigration and**  
19 **Customs Enforcement; TODD M.**  
20 **LYONS, Acting Director, U.S.**  
21 **Immigration and Customs Enforcement,**  
**U.S. Department of Homeland Security;**  
**and KRISTI NOEM, Secretary, U.S.**  
**Department of Homeland Security,**

**PETITIONER'S TRAVERSE**

22 **Respondents-Defendants.**  
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**PETITIONER’S TRAVERSE**

Petitioner Vikramjit Singh (“Petitioner”) by and through pro bono undersigned counsel, hereby submits his traverse, and states as follows.

**I. INTRODUCTION**

Petitioner entered the United States without inspection on or about August 8, 2025. Petitioner was encountered within the interior of the United States, not at a port of entry. Petitioner, by way of the underlying habeas petition, challenges only the legality of his detention rather than challenging an order of removal or Respondents’ decision to charge him with being a removable noncitizen.

**II. PROCEDURAL AND FACTUAL BACKGROUND**

Department of Homeland Security (DHS) determined Petitioner to be inadmissible under INA § 212(a)(6)(A)(i) (present without admission or parole) and INA § 212(a)(7)(A)(i)(I) (no valid entry documents). DHS then issued a Notice to Appear initiating removal proceedings. The NTA expressly charges Petitioner as an alien present in the United States without being admitted or paroled. It does not charge Petitioner as an arriving alien. Respondents now appear to argue that Respondent is subject to mandatory detention on the theory that he is an “arriving alien.”

1 **III. LEGAL STANDARD**

2 Mandatory detention under INA § 236(c) applies only to specific categories of  
3 noncitizens and does not apply to all inadmissible individuals. The government bears  
4 the burden of establishing that mandatory detention applies.  
5

6 **IV. ARGUMENTS**

7 **A. Respondent is Not an “Arriving Alien”**

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9 Under 8 C.F.R. § 1.2, an “arriving alien” is generally one who is seeking  
10 admission at a port of entry or interdicted while attempting to enter the United States.  
11 Petitioner does not meet this definition, and the Notice to Appear issued correctly  
12 reflects this. He entered without inspection and was encountered after entry, within  
13 the interior of the United States. Once DHS elected to place Petitioner in removal  
14 proceedings under INA § 240 and charged him as present without admission or  
15 parole, DHS foreclosed treatment of Petitioner as an arriving alien.  
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18 The NTA controls the classification of a respondent in removal proceedings.  
19 Here, DHS explicitly charged Petitioner as an alien present without admission or  
20 parole. Respondents cannot now relabel Petitioner as an arriving alien for detention  
21 purposes while also prosecuting him as a non-arriving alien in removal proceedings.  
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24 **B. Mandatory Detention Does Not Apply**

25 INA § 236(c) mandates detention only for noncitizens removal under  
26 enumerated criminal ground. Petitioner is not charged under any criminal removal  
27 provision. INA § 235(b) also does not apply. Petitioner is not expedited removal  
28

1 proceedings. He has not been paroled into the United States, nor has Petitioner been  
2 charged as an arriving alien. Importantly, Petitioner has no criminal history. In such  
3 case, DHS's attempt to invoke § 235(b) detention authority is ultra vires.  
4

5 **C. The Charging Document Raises Due Process Concerns**

6 Allowing Respondents to reclassify Petitioner as an arriving alien, contrary to  
7 its own charging document, violates due process. Petitioner is entitled to rely on the  
8 charges lodged against him and to a custody determination under the correct statutory  
9 framework. DHS has not met its burden of establishing that mandatory detention  
10 applies by merely producing an NTA to the contrary.  
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13 **V. CONCLUSION**

14 Because Respondent is not an arriving alien and is not subject to any  
15 mandatory detention provision, DHS lacks authority to detain Respondent without an  
16 individualized custody determination. Respondent respectfully requests that the Court  
17 find that Respondent is detained under INA § 236(a) and order a bond hearing.  
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20 Dated: February 9, 2026

Respectfully submitted,

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22 //s// Mario Portugal

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25 Mario Portugal  
26 Attorney for Petitioner  
27 Vikramjit Singh  
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