

Adriana Mitchell, Esq.  
Law Office of Adriana Mitchell  
1528 Walnut Street, Suite 1402  
Philadelphia, PA 19102  
Phone: 877-728-1496  
[adriana@mitchellimmigration.com](mailto:adriana@mitchellimmigration.com)  
Pennsylvania Bar ID: 323243

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

NEERAJ KUMAR )

A  )

Petitioner )

v. )

J.L. JAMISON )

Warden of the )  
Philadelphia Federal )  
Detention Center )

MICHAEL T. ROSE )

Acting Director of Philadelphia )  
Immigration and Customs Enforcement )  
Office )

TODD LYONS, )  
Acting Director, )  
United States Immigration and )  
Customs Enforcement (ICE) )

PAMELA JO BONDI, )  
Attorney General of the )  
United States of America, )

KRISTI NOEM, )  
Secretary of the Department of )  
Homeland Security, (DHS), )

Respondents. )

Civil Action No. 2:26-cv-470

PETITION FOR WRIT OF  
HABEAS CORPUS

## INTRODUCTION

1. Petitioner Neeraj Kumar is a twenty-seven-year-old citizen of India who arrived in the United States almost two years ago, seeking protection from persecution. He was detained upon arrival and then release on his own recognizance.
2. On December 22, 2025, Mr. Kumar was unlawfully re-detained during a regular ICE check-in, even though there is no change in his personal circumstances that makes him a danger to the community, a threat to national security or a risk of flight. To the contrary, since his arrival Mr. Kumar's conduct was exemplary, and he built strong ties and trust relationships in the community.
3. Petitioner is detained pending his removal proceedings without access to a hearing conducted by a neutral decisionmaker to determine whether his detention is warranted based on danger or flight risk, pursuant to the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
4. This decision, which holds that 8 U.S.C. § 1225(b)(2) makes noncitizens like Petitioner who are apprehended in the United States but have never been admitted subject to mandatory detention without a bond hearing, violates the statute. Instead, 8 U.S.C. § 1226(a) applies and authorizes release on bond after a hearing before an immigration judge. The BIA's interpretation conflicts with the plain language and structure of the statute, as well as decades of uncontroverted agency practice. Therefore, the application of § 1225(b)(2) to Petitioner is contrary to law and violates the Immigration and Nationality Act (INA) and the Administrative Procedure Act (APA).

5. In the alternative, if the statute does authorize Petitioner's detention without a bond hearing, it violates his rights to substantive and procedural due process. Detention of all noncitizens who are subject to inadmissibility grounds, like Petitioner, without any individualized hearing does not "bear a reasonable relation to the purpose for which the individual was committed." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, application of the *Mathews v. Eldridge* balancing test shows that a bond hearing is necessary to protect Petitioner from an unnecessary deprivation of liberty. *See* 424 U.S. 319, 335 (1976).
6. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody, with appropriate conditions of supervision if necessary. In the alternative, Petitioner requests that this Court conduct or order an immigration judge to conduct a bond hearing at which (1) the government bears the burden of proving flight risk and/or dangerousness by clear and convincing evidence and (2) the reviewing court considers alternatives to detention that could mitigate risk of flight. *See German Santos v. Warden Pike Cty. Corr. Facility*, 965 F.3d 203, 213-214 (3d Cir. 2020).

### **JURISDICTION**

7. Petitioner is in the physical custody of the Respondents.
8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause).
9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1261, the All-Writs Act.

### REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
11. 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).

### VENUE

12. Venue lies in the U.S. District Court for the Eastern District of Pennsylvania, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973) (finding proper venue lies in the judicial district in which Petitioner is currently detained).
13. 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 Eastern District of New Jersey.

### PARTIES

14. Petitioner is Neeraj Kumar is a twenty-seven-year-old citizen of India who has been

detained and held without bond at the Federal Detention Center in Philadelphia since December 22, 2025. He seeks issuance of a writ of *habeas corpus*.

15. Respondent J.L. Jamison, the warden of the Philadelphia Federal Detention Center is sued in his official capacity, as he is the Petitioner's actual physical custodian.
16. Respondent Michael T. Rose is sued in his official capacity as ICE's Acting Field Office Director for the Philadelphia Field Office of ICE Enforcement and Removal Operations. As acting field office director, Respondent Rose oversees ICE's enforcement and removal operations in the Philadelphia Area of Responsibility ("AOR"). Upon information and belief, Respondent Rose is responsible for the decision to unlawfully detain Mr. Kumar. He is sued in his official capacity.
17. Respondent Todd Lyons is sued in his official capacity as the Acting Director of the United States Immigration and Customs Enforcement (ICE) the department within the Department of Homeland Security and in this capacity, he is responsible for administering and enforcing the immigration laws in New Jersey and is Petitioner's legal custodian.
18. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity she is responsible for administering and enforcing the immigration laws pursuant to 8 U.S.C. § 1103 and is the Petitioner's legal custodian.
19. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security the agency in charge of administering and enforcing the immigration laws in New Jersey and is the Petitioner's legal custodian.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

20. There is no statutory requirement of exhaustion of administrative remedies where a

noncitizen challenges the lawfulness of his detention. *Arango Marquez v. Immigr. And Naturalization Svc.*, 346 F.3d 892, 897 (9th Cir. 2003). Any requirement of administrative exhaustion is therefore purely discretionary. See *Santos v. Lowe*, No. 1:18-cv-1553, 2020 WL 4530728, at \*2 (M.D. Pa. Aug. 2020) (“[T]he exhaustion requirement imposed by courts relating to habeas corpus petitions filed by immigration detainees is a prudential benchmark which is not compelled by statute.”).

21. In making that decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing . . . In this context the need for habeas corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).
22. Moreover, the exhaustion “doctrine is not without exception.” *Ashley v. Ridge*, 288 F. Supp. 2d 662, 666. (D.N.J. 2003). “Courts have found that the exhaustion of administrative remedies may not be required when available remedies provide no opportunity for adequate relief, an administrative appeal would be futile, or if plaintiff has raised a substantial constitutional question.” *Id.* at 666-67.
23. Further, the BIA does not have jurisdiction to adjudicate constitutional issues. *Qatanani v. Att’y Gen. of the U.S.*, 144 F.4th 485, 500 (3d Cir. 2025); see also *Ashley*, 288 F. Supp. 2d at 667 (internal citations omitted). Therefore, any administrative proceedings would be futile because petitioner raises a constitutional due process claim. *Qatanani*, 144 F.4th at 500.

#### **FACTS OF THE CASE AND PROCEDURAL BACKGROUND**

24. Mr. Kumar is a native and citizen of India, born on [REDACTED] He entered the United States on February 20, 2023, through Lukeville, Arizona. Upon arrival, he was taken into custody by immigration authorities and then released on his own recognizance. Before his release, Petitioner was served with a Notice to Appear charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i), as an alien present in the United States without having been admitted or paroled, or who arrived in the United States at a time or place other than as designated by the Attorney General. The Notice to Appear served to Mr. Kumar at the border almost two years ago was not filed with the Immigration Court until after his arrest.
25. As a condition of his release, Mr. Kumar was instructed to report to ICE in Philadelphia. He complied with this requirement. It was during his third ICE reporting that occurred on December 22, 2025, that he was arrested and taken into custody. He is currently detained at the Federal Detention Center in Philadelphia.
26. Mr. Kumar has never committed any crimes and has a meritorious asylum claim pending with the USCIS. He attended his biometrics appointment and he obtained an Employment Authorization Document that allows him to be lawfully employed in the United States.
27. The Petitioner is subject to indefinite unlawful detention due to DHS' recent interpretation of the Immigration and Naturalization Act's provisions regarding the detention of aliens. According to this interpretation that reverse decades of precedents and makes an entire section of the INA redundant, any alien who entered the United States without inspection is ineligible for bond.
28. On July 8, 2025, the Department of Homeland Security issued interim guidance titled "Detention Authority for Applicants for Admission." The guidance stated that DHS and

DOJ determined that 8 U.S.C. § 1225(b)(2), not §1226, governs aliens present in the U.S. who have not been admitted. Under this policy, such individuals are “applicants for admission” subject to mandatory detention and not eligible for bond release.

29. Two months later, on September 5, 2025, Board of Immigration Appeals adopted the same interpretation of the Immigration and Naturalization Act and stripped the Immigration Judges of their authority to “hear bond requests or to grant bond to aliens who are present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025),

30. Petitioner has no other avenue of judicial review available other than habeas review.

31. Absent judicial review of her custody claim, Petitioner will suffer irreparable injury by being deprived of his physical liberty.

### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Declare that Petitioner’s continued detention violates the Immigration and Nationality Act, the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
- 3) Issue a Writ of *Habeas Corpus* and order Petitioner’s immediate release from custody;
- 4) Award Petitioner his costs and reasonable attorney fees in this action as provided for by the Equal Access to Justice Act, as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and

- 5) Grant such further relief as the Court deems just and proper.

Dated: January 23, 2025

//ss/Adriana Mitchell

---

Adriana Mitchell, Esq.  
PA Bar # 323243  
Law Office of Adriana Mitchell  
1528 Walnut Street, Suite 1402  
Philadelphia, PA 19102  
*Attorney for Petitioner*

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT  
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorneys, and I have discussed the claims with the Petitioner. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 23, 2026

Respectfully submitted,

//s// Adriana Mitchell

Adriana Mitchell, Esq.  
*Attorney for Petitioner*