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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

PARDEEP SHARMA
aka PARDEEP SINGH

Petitioner,

v.

JEREMY CASEY, Warden, Imperial
Regional Detention Facility; DANIEL A.
BRIGHTMAN, Field Office Director,
San Diego Field Office, U.S. Immigration
and Customs Enforcement; TODD M.
LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and
PAMELA JO BONDI, Attorney General
of the United States *in their official
capacities*

Respondents.

Case No.: '26CV513 JLS SBC

**PETITION FOR WRIT OF
HABEAS CORPUS;
REQUEST FOR IMMEDIATE
RELIEF AND TEMPORARY
RESTRAINING ORDER**

INTRODUCTION

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3 1. Petitioner Pardeep Sharma ("Petitioner") respectfully submits this Petition for
4 a Writ of Habeas Corpus under 28 U.S.C. § 2241 challenging his continued civil
5 immigration detention at Imperial Regional Detention Facility ("IRDF") without
6 constitutionally adequate procedures as required by the Due Process Clause of the Fifth
7 Amendment.

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10 2. Petitioner previously sought habeas relief in this Court. On December 18,
11 2025, the Court granted the petition and ordered that Petitioner be provided a bond
12 hearing within 14 days. *See Sharma v. Casey et al*, No. 3:25-cv-03335-BAS-DDL.

13
14 3. Petitioner received that bond hearing before Immigration Judge Jeffrey Munoz
15 on January 23, 2026. The Immigration Judge denied bond.

16
17 4. However, the bond proceeding ordered by this Court failed to provide the
18 constitutionally required procedural protections for continued detention. The Immigration
19 Judge (1) misallocated the burden of proof to Petitioner, (2) relied solely on adverse
20 credibility findings that are not probative of danger or flight risk under controlling law,
21 (3) ignored material evidence demonstrating lack of danger and flight risk, and (4) failed
22 to consider less restrictive alternatives to detention. These errors render the hearing
23 constitutionally inadequate under binding Ninth Circuit precedent.

24
25
26 5. Petitioner therefore seeks renewed habeas relief and requests that this Court
27 order his immediate release under reasonable conditions of supervision, if deemed
28

1 appropriate and necessary. Petitioner also respectfully seeks a Temporary Restraining
2 Order and Order to Show Cause, as continued detention is causing irreparable harm and
3 his individual (final) hearing in removal proceedings is scheduled for February 3, 2026.
4 (See Exhibit H, Individual Hearing Notice.)
5

6 CUSTODY

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8 6. Petitioner is in the physical custody of Respondents while imprisoned
9 Imperial Regional Detention Facility, an immigration detention facility in Calexico,
10 California. Petitioner is under the direct control of Respondents and their agents. (See
11 Exhibit C, ICE Form I-830, Notice to EOIR: Alien Address).
12

13 JURISDICTION

14
15 7. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
16 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
17 Constitution (the Suspension Clause). Indeed, “a federal district court has habeas
18 jurisdiction under 28 U.S.C. § 2241 to review [] bond hearing determinations for
19 constitutional claims and legal error.” *Singh v. Holder*, 638 F.3d 1198, 1200-01 (9th Cir.
20 2011); *see also Jennings v. Rodriguez*, 138 S. Ct. 830, 841 (2018) (8 U.S.C. “§ 1226(e)
21 does not preclude ‘challenges [to] the statutory framework that permits [the alien’s]
22 detention without bail.’” (alterations in original) (*quoting Demore v. Kim*, 538 U.S. 510,
23 516 (2003)). Section 1226(c) “does not limit habeas jurisdiction over constitutional
24 claims or questions of law,” which, as the Ninth Circuit has explained, “includ[e]

1 ‘application of law to undisputed facts, sometimes referred to as mixed questions of law
2 and fact.’” *Singh*, 638 F.3d at 1202 (quoting *Ramadan v. Gonzales*, 479 F.3d 646, 648
3 (9th Cir. 2007) (per curiam)). Thus, a district court has jurisdiction to review an IJ’s
4 discretionary bond denial where that bond denial is challenged as legally erroneous or
5 unconstitutional. See *De La Cruz Sales v. Johnson*, 323 F. Supp. 3d 1131, 1139 (N.D.
6 Cal. 2017) (concluding that immigrant’s claims were reviewable by district court where
7 bond determination challenged as constitutionally flawed).

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

13 14 VENUE

15 9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
16 484, 493–500 (1973), venue lies in the United States District Court for the Southern
17 District of California, the judicial district in which Petitioner is currently detained.

18
19 10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
20 Respondents are employees, officers, and agencies of the United States, and because a
21 substantial part of the events or omissions giving rise to the claims occurred in the
22 Southern District of California.
23
24

25 REQUIREMENTS OF 28 U.S.C. § 2243

26 11. The Court must grant the petition for writ of habeas corpus or order
27 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28

1 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return
2 “within three days unless for good cause additional time, not exceeding twenty days, is
3 allowed.” *Id.*

4
5 12. Habeas corpus is “perhaps the most important writ known to the
6 constitutional law . . . affording as it does a swift and imperative remedy in all cases of
7 illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
8 added). “The application for the writ usurps the attention and displaces the calendar of
9 the judge or justice who entertains it and receives prompt action from him within the four
10 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation
11 omitted).

12 PARTIES

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16 13. Petitioner was arrested by ICE on November 11, 2025, and has been
17 detained at Imperial Regional Detention Facility since that date. He has resided in the
18 United States since December 3, 2022. He has no criminal history whatsoever, has
19 consistently complied with immigration authorities, and has pending applications for
20 asylum and a “U-visa”, as someone who was the victim of a qualifying crime and
21 cooperated with authorities in the investigation of the crime.

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25 14. Respondent Daniel A. Brightman is the Director of the San Diego Field
26 Office of ICE’s Enforcement and Removal Operations division. As such, Mr. Brightman
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1 is Petitioner's immediate custodian and is responsible for his detention and removal. He
2 is named in his official capacity.
3

4 15. Respondent Jeremy Casey is the Warden of the Imperial Regional Detention
5 Facility, in which Petitioner remains incarcerated. He has immediate physical custody of
6 Petitioner. He is sued in his official capacity.
7

8 16. Respondent Kristi Noem is the Secretary of the Department of Homeland
9 Security. She is responsible for the implementation and enforcement of the Immigration
10 and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
11 detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her
12 official capacity.
13
14

15 17. Respondent Pamela Bondi is the Attorney General of the United States. She
16 is responsible for the Department of Justice, of which the Executive Office for
17 Immigration Review and the immigration court system it operates is a component
18 agency. She is sued in her official capacity.
19
20

21 18. Respondent Department of Homeland Security (DHS) is the federal agency
22 responsible for implementing and enforcing the INA, including the detention and removal
23 of noncitizens.
24

25 19. Respondent Executive Office for Immigration Review (EOIR) is the federal
26 agency responsible for implementing and enforcing the INA in removal proceedings,
27 including for custody redeterminations in bond hearings.
28

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4 **LEGAL FRAMEWORK**

5 20. The INA prescribes three basic forms of detention for the vast majority of
6 noncitizens in removal proceedings.
7

8 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard
9 removal proceedings before an Immigration Judge (IJ). *See* 8 U.S.C. § 1229a. Individuals
10 in § 1226(a) detention are generally entitled to a bond hearing at the outset of their
11 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
12 arrested, charged with, or convicted of certain crimes are subject to mandatory detention,
13 *see* 8 U.S.C. § 1226(c).
14
15

16 22. Second, the INA provides for mandatory detention of noncitizens subject to
17 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking
18 admission referred to under § 1225(b)(2).
19
20

21 23. Last, the INA also provides for detention of noncitizens who have been
22 ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. §
23 1231(a)–(b).
24

25 24. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
26 The District Court already made a finding that statutory interpretation supports that
27 Section 1226(a), not Section 1225(b)(2)(A), applies to Petitioner’s immigration detention.
28

1 25. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
2 apply to people like Petitioner, who were encountered at the border and released after a
3 quasi-judicial determination by an immigration official on a form I-220A as an
4 uninspected entrant, and Petitioner is not subject to mandatory detention under §
5 1225(b)(2)(A).
6
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8 **STATEMENT OF FACTS**

9
10 **A. Procedural Posture**

11 26. Petitioner has resided in the United States since approximately December 3,
12 2022 and currently resides physically in Calexico, California, where he is detained.
13

14 27. Upon his entry into the United States, the DHS released Petitioner into the
15 country with a Form I-220A, *Order of Release on Recognizance*, or “OREC,” which
16 found that Petitioner was detained and released under INA § 236, formally documenting
17 that he was arrested, placed in removal proceedings, and explicitly released pursuant to
18 INA § 236 (*See Exhibit A, OREC*).
19
20

21 28. The DHS initiated removal proceedings against Petitioner pursuant to 8
22 U.S.C. § 1229a by filing a Notice to Appear with EOIR, alleging that Petitioner entered
23 the United States without inspection, admission or parole. (*See Exhibit B, Notice to*
24 *Appear*).
25

26 29. On or about November 11, 2025, in Riverside, California, Petitioner was re-
27 detained by immigration agents without a warrant and is now detained at the Imperial
28

1 Regional Detention Facility. (See Exhibit C, ICE Form I-830, Notice to EOIR: Alien
2 Address).

3
4 30. In support of the factual allegations, Petitioner submits the Declaration of
5 Counsel, which provides additional background regarding the circumstances of
6
7 Petitioner's arrest, detention, and removal proceedings. (See Exhibit D, Declaration of
8 Counsel).

9
10 31. Petitioner filed his first habeas petition in this Court. On December 18, 2025,
11 this Court made a finding that statutory interpretation supports that Section 1226(a), not
12 Section 1225(b)(2)(A), applies to Petitioner's immigration detention, granted the petition
13 and ordered a bond hearing within 14 days. (See Exhibit F, District Court Order Granting
14 First Habeas Petition).

15
16 32. Bond hearings were held on December 30, 2025, January 6, 2026, and
17 January 15, 2026 at the Imperial Immigration Court. On January 23, 2026, Immigration
18 Judge ("IJ") Jeffrey Munoz issued a written decision denying bond. (See Exhibit E, IJ
19 Order Denying Bond).

20
21 33. Petitioner remains detained as of the date of this filing. Without relief from
22 this court, he faces the prospect of months, or even years, in immigration custody,
23 separated from his family and community.

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26 ***B. Evidence in Support of Release***
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1 34. At the bond hearing, Petitioner submitted extensive evidence demonstrating
2 that he has not and does not pose a danger to the community and is not a flight risk
3 pursuant to *Matter of Guerra*, 25 I&N Dec. 37, 40 (BIA 2006). (See Exhibits G, H). He
4 filed evidence showing he has no criminal history; has a fixed residence with housing
5 sponsor; has strong ties to community; has no record of any violations with the
6 immigration court or ICE; has a pending asylum application; has a pending U-visa filed
7 April 2025, providing a self-enforcing incentive to appear; a willingness to accept
8 conditions including GPS, ICE reporting, restricted employment, and surrender of his
9 commercial drivers license; has no failures to appear at any immigration court
10 proceedings; and poses no danger to public safety whatsoever.

15 35. These materials were submitted in Petitioner's bond briefing, including his
16 closing brief.

19 36. DHS opposed the granting of bond but submitted minimal evidence, limited
20 only to Petitioner's drivers license and excerpts from the California Commercial Driver
21 Handbook, and offered no evidence of criminal conduct, violence, or prior absconding.
22 (See Exhibit I, DHS Evidence Submitted at Bond Hearing).

24 **C. Immigration Judge's Decision**

25 37. Despite the above, the IJ denied bond, stating that "Respondent failed his
26 burden to prove that he would not be a danger or a flight risk." The IJ further relied on
27 asserted adverse credibility findings unrelated to public safety or flight risk.
28

1 38. The IJ did not find Petitioner dangerous based on any criminal history,
2 violent conduct, weapons, gang affiliations, or similar factors.
3

4 39. The IJ did not find Petitioner a flight risk based on any prior failures to
5 appear, access to false documents, absconding history, availability of relief from removal
6 or ties to the United States.
7

8 40. The IJ did not address Petitioner's proposed alternative conditions of release,
9 as required by law, nor did he consider whether any concerns could be mitigated through
10 supervision, alternatives to detention, or a significant amount of bond.
11

12 ARGUMENT

13 I. THE FIFTH AMENDMENT REQUIRES PROCEDURAL SAFEGUARDS 14 COMMENSURATE WITH THE STRUCTURAL LIBERTY INTEREST AT 15 STAKE IN CIVIL IMMIGRATION DETENTION 16

17 41. Civil immigration detention triggers a core liberty interest protected by the
18 Fifth Amendment. "[T]he Due Process Clause applies to all 'persons' within the United
19 States, including aliens, whether their presence here is lawful, unlawful, temporary, or
20 permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). "Even when the
21 government has discretion to detain an individual, its subsequent decision to release
22 the individual creates 'an implicit promise' that she will be re-detained only if she
23 violates the conditions of her release." *Garro Pinchi v. Noem*, No. 25-CV-05632-PCP, ---
24 F. Supp. 3d. ---, 2025 WL 3691938, at *30 (N.D. Cal. Dec. 19, 2025) (citing
25 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)). Other courts have held similarly.
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1 *J.E.H.G. v. Chestnut*, No. 1:25-cv-01673-JLT-SKO, 2025 WL 3523108, at *10
2 (E.D. Cal. Dec. 9, 2025) (citing *Doe v. Becerra*, No. 2:25-CV-00647-DJC-DMC,
3 2025 WL 691664, at *4 (E.D. Cal. Mar. 3, 2025)). “Accordingly, a noncitizen released
4 from custody pending removal proceedings has a protected liberty interest in
5 remaining out of custody.” *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC),
6 2025 WL 2637503, at *6 (N.D. Cal. Sept. 12, 2025). The immigration judge failed to
7 contend with the liberty interest created by the fact that the Petitioner in this case was
8 released and issued a Form I-220A release on recognizance.
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12 42. Applying that framework here demonstrates that the bond hearing ordered
13 by this Court did not satisfy due process. Petitioner has an unquestionably weighty
14 interest in freedom from physical confinement. He has been detained since November 11,
15 2025, and no arrests, criminal charges or convictions underlie his detention. He does not
16 even have a traffic ticket. The risk of erroneous deprivation under the procedures
17 employed by the Immigration Judge was substantial because the Immigration Judge
18 misallocated the burden of proof to Petitioner, contrary to binding Ninth Circuit
19 precedent. In *Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011), the Ninth Circuit
20 held that the Government must carry the burden at a bond hearing to justify continued
21 detention under § 1226(a). In *Martinez*, the Ninth Circuit clarified the standard, holding
22 that the Government must prove danger by clear and convincing evidence and flight risk
23 by a preponderance. 124 F.4th at 784–86. Several district courts applying *Mathews* to re-
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1 detention have agreed. See, e.g., *Carmen G.C. v. Kaiser*, 2025 WL 3521304, at *7 (E.D.
2 Cal. June 6, 2025) (“On balance, the Mathews factors show that petitioner is entitled to a
3 bond hearing where the government must prove that she is a flight risk or danger to the
4 community by clear and convincing evidence.”); *J.E.H.G. v. Chestnut*, 2025 WL
5 3523108, at *14 (E.D. Cal. Dec. 9, 2025) (explaining that where DHS initiates re-
6 detention, it must justify the renewed deprivation of liberty).
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10 43. Here, Petitioner’s continued detention violates due process because the bond
11 hearing that this Court ordered as a remedy for Petitioner’s prior unlawful detention did
12 not provide the safeguards required by *Mathews*. Petitioner has now been detained since
13 November 11, 2025, despite having no criminal history, fully complying with
14 immigration proceedings for over two years, and pursuing pending applications for
15 asylum and U-nonimmigrant status that create independent incentives to appear. The
16 procedural deficiencies in the bond hearings conducted created a substantial risk of
17 erroneous deprivation of liberty, and the safeguards necessary to cure those deficiencies
18 were neither novel nor burdensome. Because the agency failed to provide a
19 constitutionally adequate hearing, continued detention is unlawful and habeas relief is
20 warranted in the form of immediate release.
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25 **II. THE IMMIGRATION JUDGE MISALLOCATED THE BURDEN OF**
26 **PROOF**

27 44. The Immigration Judge in this case denied bond because “Respondent failed
28 his burden to prove that he would not be a danger or flight risk” expressly placing the

1 burden on the detainee to prove that he was not dangerous and not a flight risk after DHS
2 initiated re-detention. That error is not merely technical. Burden allocation is a
3 “structural” component of procedural due process because it determines which side loses
4 when the evidence is in equipoise. See *Addington v. Texas*, 441 U.S. 418, 423 (1979).
5 Under *Mathews*, misallocating the burden to the detainee in a civil detention hearing
6 creates precisely the type of erroneous deprivation of liberty that habeas exists to remedy.
7 Once this Court ordered a bond hearing through habeas, it was incumbent on the agency
8 to provide a hearing that comported with constitutional requirements. It did not.

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12 **III. THE IMMIGRATION JUDGE DENIED BOND WITHOUT ANY**
13 **PROBATIVE EVIDENCE OF DANGEROUSNESS OR FLIGHT RISK,**
14 **RENDERING DETENTION ARBITRARY AND UNLAWFUL**

15 45. Due process further requires that continued detention be justified by
16 evidence actually probative of dangerousness or flight risk. Under Board of Immigration
17 Appeals precedent, detention under § 1226(a) must rest on evidence that is “probative
18 and specific.” *Matter of Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006). Courts applying
19 *Guerra* in the habeas context have rejected reliance on speculative or non-probative
20 rationales. See *Kharis v. Sessions*, 2018 WL 5809432, at *6 (N.D. Cal. Nov. 6, 2018).

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24 46. Here, DHS did not submit any evidence that Petitioner is dangerous or likely
25 to abscond. DHS did not assert either ground when responding to Petitioner’s initial
26 habeas petition, instead relying exclusively on its theory that Petitioner was subject to
27 mandatory detention under § 1225(b), which this Court rejected. At the bond hearing,
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1 DHS submitted only Petitioner's driver's license and did not present evidence of any
2 arrests, criminal history, violence, weapons, gang affiliation, prior failures to appear,
3 identity fraud, or noncompliance with removal proceedings. In denying bond, the
4 Immigration Judge relied entirely on asserted adverse credibility findings related to
5 Petitioner's testimony about an armed robbery incident and speculative assertions about
6 future employment conduct involving commercial driving. Courts have held that
7 credibility assessments, standing alone, are not evidence of dangerousness or flight risk,
8 particularly where they relate to past events rather than future compliance. Reliance on
9 mere conjecture cannot justify civil detention. See also *Zadvydas*, 533 U.S. at 690
10 (detention must be reasonably related to a legitimate purpose). The absence of probative
11 evidence renders continued detention arbitrary.
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17 **IV. THE IJ FAILED TO CONSIDER MATERIAL EVIDENCE SUPPORTING**
18 **RELEASE, INCLUDING EVIDENCE DIRECTLY RELEVANT TO THE**
19 **PERMISSIBLE STATUTORY FACTORS.**

20 47. The Ninth Circuit has long recognized that due process requires adjudicators
21 to consider material evidence submitted in immigration proceedings. In *Larita-Martinez*
22 *v. INS*, the court held that the Due Process Clause requires the agency to review all
23 relevant evidence. 220 F.3d 1092, 1095 (9th Cir. 2000). Although the agency is not
24 required to recite every document, the presumption of regular review may be rebutted
25 when the decision affirmatively indicates that highly probative evidence was overlooked
26 or ignored. See *Cole v. Holder*, 659 F.3d 762, 772 (9th Cir. 2011); *Fernandez v.*
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1 *Gonzales*, 439 F.3d 592, 603 (9th Cir. 2006). District courts reviewing bond
2 determinations have applied these due process principles to civil immigration detention.
3 See, e.g., *Ramos v. Sessions*, 293 F. Supp. 3d 1021, 1033 (N.D. Cal. 2018).
4

5
6 48. Here, the Immigration Judge did not mention or analyze Petitioner's lack of
7 criminal history, verified residence and employment history, full compliance with
8 immigration authorities, asylum application, or pending U-visa application filed in April
9 2025, all of which are directly relevant to the two statutory considerations under §
10 1226(a): dangerousness and flight risk. Nor did the Immigration Judge acknowledge
11 Petitioner's mental health evaluation, notwithstanding the decision's reliance on the
12 robbery incident to infer future risk. These omissions are not collateral. They go to the
13 heart of the detention determination and are required by *Matter of Guerra*. Failure to
14 consider such evidence violates due process and renders continued detention unlawful.
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19 **V. THE IJ FAILED TO CONSIDER LESS RESTRICTIVE ALTERNATIVES**
20 **TO DETENTION**

21 49. The Ninth Circuit has also held that due process requires consideration of
22 less restrictive alternatives to detention where the Government's interests can be achieved
23 through conditions of supervision. In *Hernandez v. Sessions*, the court held that the
24 Government must consider whether its interests "may be accomplished by alternative
25 means that are less harsh than confinement." 872 F.3d 976, 991 (9th Cir. 2017).
26
27
28 Petitioner proposed tailored release conditions designed to eliminate any conceivable

1 risk, including surrender of his commercial driver's license, a prohibition on commercial
2 driving, GPS monitoring, residence verification, and ICE reporting. The Immigration
3 Judge did not consider these alternatives at all. The failure to assess less restrictive means
4 violates *Mathews* and renders continued detention unlawful.
5

6
7 **VI. WHERE A DISTRICT COURT HAS ALREADY GRANTED HABEAS
8 RELIEF AND THE AGENCY FAILS TO CURE THE CONSTITUTIONAL
9 VIOLATION, CONTINUED DETENTION IS ARBITRARY AND HABEAS
10 CORPUS REQUIRES RELEASE**

11 50. This case reaches the Court in a posture that materially alters the remedial
12 framework. On December 18, 2025, this Court granted habeas relief and ordered the
13 Government to provide Petitioner with a bond hearing. That hearing was intended to cure
14 the constitutional defect underlying Petitioner's initial unlawful detention. Because
15 habeas corpus is designed to remedy unlawful custody, the agency was required to
16 provide a hearing consistent with due process. All three bond hearings conducted failed
17 to do so. The Government's failure to cure the constitutional violation despite judicial
18 intervention renders continued detention arbitrary within the meaning of the Due Process
19 Clause. Under these circumstances, habeas corpus requires release rather than further
20 administrative process.
21

22 51. District courts confronted with similar post-habeas deficiencies have ordered
23 immediate release, reasoning that habeas does not require a detainee to endure successive
24 rounds of incomplete or constitutionally deficient proceedings while incarcerated. In
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1 *Judulang v. Chertoff* (S.D. Cal.), the court ordered release after the agency failed to
2 provide the procedural protections required by the court's prior habeas decision. Courts
3 in other jurisdictions have followed the same approach where DHS was given an
4 opportunity to cure and did not. See, e.g., *Nguti v. Sessions* (W.D.N.Y.); *Enoh v. Sessions*
5 (W.D.N.Y.); *Hechavarria v. Whitaker* (W.D.N.Y.). These cases reflect the principle that
6 habeas corpus entitles the detainee to a meaningful remedy, not merely an iterative
7 process. As the Supreme Court has repeatedly explained, the essence of habeas corpus is
8 an attack by a person in custody upon the legality of that custody, and "the traditional
9 function of the writ is to secure release from illegal custody." *Preiser v. Rodriguez*, 411
10 U.S. 475, 484 (1973).

15 52. Requiring Petitioner to return to immigration court for another attempt at
16 constitutional compliance would not provide an effective remedy. The Due Process
17 Clause does not permit the Government to prolong civil confinement while it makes
18 serial attempts to approximate constitutional adequacy, particularly where the detainee
19 has an imminent asylum merits hearing scheduled for February 3, 2026 and has fully
20 complied with immigration authorities for over two years. At this juncture, Petitioner has
21 exhausted the process that the agency is capable of providing. His continued detention
22 therefore exceeds the permissible bounds of civil detention and violates due process. The
23 writ must issue.

CLAIMS FOR RELIEF

COUNT I
Violation of Due Process

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

7
8 54. The government may not deprive a person of life, liberty, or property
9 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from
10 government custody, detention, or other forms of physical restraint—lies at the heart of
11 the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

12
13 55. Petitioner has a fundamental interest in liberty and being free from official
14 restraint.

15
16 56. The government failed to provide the procedural safeguards required to
17 justify continued civil immigration detention after re-detaining Petitioner without a
18 warrant.

19
20 57. The bond hearings conducted did not satisfy constitutional requirements.
21 The Immigration Judge misallocated the burden of proof to Petitioner, denied bond in the
22 absence of probative evidence of dangerousness or flight risk, failed to consider material
23 evidence supporting release, and failed to consider less restrictive alternatives to
24 detention. Because these procedural deficiencies created a substantial risk of erroneous
25 deprivation of liberty and because the Government’s interests could have been achieved
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1 through less restrictive means, Petitioner's continued detention violates the Due Process
2 Clause.

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4 58. The government failed to establish a legitimate regulatory purpose for
5 detention. The government did not present probative evidence that Petitioner poses a
6 danger to the community or a risk of flight. Petitioner has no criminal history, has fully
7 complied with immigration proceedings, and has pending applications for asylum and U-
8 nonimmigrant status that incentivize compliance. The Immigration Judge's denial of
9 bond rested on speculative credibility assessments related to past trauma and conjecture
10 about future employment conduct, none of which establishes a legitimate regulatory basis
11 for detention. Because no permissible purpose supports Petitioner's continued
12 confinement, his detention is arbitrary and unlawful.

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17 59. The government failed to provide a constitutionally adequate hearing after
18 this Court granted habeas relief. On December 18, 2025, this Court granted habeas relief
19 and ordered that Petitioner receive a bond hearing. The purpose of the ordered hearing
20 was to cure the constitutional violation underlying Petitioner's prior unlawful detention.
21 The Government failed to cure that violation because the Immigration Judge did not
22 provide the procedures required by due process. When a federal court affords the agency
23 an opportunity to cure a constitutional defect and the agency fails to do so, continued
24 detention becomes arbitrary and unlawful. District courts reviewing post-habeas
25 detention have therefore ordered immediate release rather than further remand. See, e.g.,
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1 *Judulang v. Chertoff* (S.D. Cal.). Habeas corpus entitles a detainee to a meaningful
2 remedy for unlawful custody. Because the agency failed to provide a constitutionally
3 adequate hearing despite judicial intervention, Petitioner's continued detention violates
4 the Constitution.
5

6
7 60. Habeas corpus provides the proper remedy to secure Petitioner's release
8 from unlawful custody. The Supreme Court has held that "the essence of habeas corpus is
9 an attack upon the legality of custody and the traditional function of the writ is to secure
10 release from illegal custody." *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973). Federal
11 courts have broad equitable authority to order release when a detainee is held in violation
12 of the Constitution. *Zadvydas*, 533 U.S. at 687. Because Petitioner's detention is no
13 longer tethered to a legitimate regulatory purpose and because the Government has failed
14 to provide constitutionally sufficient process after this Court ordered a cure, habeas
15 corpus is the only effective remedy.
16
17
18

19 **PRAYER FOR RELIEF**

20
21 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 22 a. Assume jurisdiction over this matter;
23
24 b. Order that Petitioner shall not be transferred outside the Southern District of
25 California while this habeas petition is pending;
26
27 c. Issue an Order to Show Cause ordering Respondents to show cause why this
28 Petition should not be granted within three days;

- 1 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner
- 2 immediately;
- 3
- 4 e. Declare that Petitioner's detention is unlawful;
- 5
- 6 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice
- 7 Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis
- 8 justified under law; and
- 9
- 10 g. Grant any other and further relief that this Court deems just and proper.
- 11

12 DATED this 27th of January, 2026

13
14
15 s/ Martin O'Hara, Esq.
16 Martin O'Hara, Esq.
17 Counsel for Petitioner
18 CA State Bar No. 313973
19 5155 Rosecrans Ave., Ste. 250
20 Hawthorne, CA 90250
21 Tel: (213) 265-7348
22 Email: Martin@MartinOharaLaw.com
23
24
25
26
27
28

EXHIBIT B

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [REDACTED]

Event No: [REDACTED]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [REDACTED]

File No: [REDACTED]

In the Matter of:

Respondent: PARDEEP SHARMA

currently residing at:

[REDACTED ADDRESS]

(Number, street, city, state and ZIP code)

[REDACTED PHONE]

(Area code and phone number)

- You are an arriving alien.
- You are an alien present in the United States who has not been admitted or paroled.
- You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of INDIA and a citizen of INDIA;
3. You entered the United States at or near Lukeville, AZ, on or about December 3, 2022;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the See Continuation Page Made a Part Hereof

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- Section 235(b)(1) order was vacated pursuant to: 8CFR 208.30 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

1241 E DYER RD STE 200 SANTA ANA CA 92705, SANTA ANA IMMIGRATION COURT

(Complete Address of Immigration Court, including Room Number, if any)

on March 8, 2024 at 8:30 AM to show why you should not be removed from the United States based on the

(Date)

(Time)

charge(s) set forth above.

B 008039 BURNICK - SDOO

(Signature and Title of Issuing Officer)

Date: December 18, 2023

San Bernardino, CA

(City and State)

ECIR - 3 of 4

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.1b. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6993.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on December 19, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

- in person by certified mail, returned receipt # _____ requested by regular mail
- Attached is a credible fear worksheet.
- Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

DANIEL BOND

(Signature and Title of Officer)

EOIR 4 of 5

Exh. 1 - adm.

Uploaded on: 12/28/2023 at 10:51:27 AM (Pacific Standard Time) Base City: SNC

U.S. Department of Homeland Security

Continuation Page for Form I-862

Alien's Name SHARMA, PARDEEP	File Number XXXXXXXXXX	Date 12/18/2023
Event No: XXXXXXXXXX		

THE SERVICE ALLEGES THAT YOU:

Immigration and Nationality Act; and/or

6. You are an immigrant not in possession of a valid unexpired passport, or other suitable travel document, or document of identity and nationality.

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature 	Title SDDO
--	---------------

EOIR 5 of 6

EXHIBIT D

**DECLARATION OF COUNSEL
IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS**

I, Martin O'Hara, declare under penalty of perjury as follows:

1. I am the attorney of record for Petitioner, Pardeep Sharma (also known as Pardeep Singh), in the above-captioned habeas corpus proceeding. I am licensed to practice law in the State of California (CA SBN 313973) and admitted to practice before the United States District Court for the Southern District of California. I submit this declaration in support of Petitioner's Petition for Writ of Habeas Corpus. The facts stated below are based on my personal knowledge, my communications with Petitioner, and my review of government records, filings, and documents produced by DHS and EOIR. If called as a witness, I could and would testify competently.
2. On December 18, 2025, this Court granted habeas relief in Petitioner's prior habeas corpus action and ordered the Government to provide Petitioner with an individualized bond hearing. A true and correct copy of the Court's order is attached as Exhibit F.
3. Petitioner received the court-ordered bond hearing before Immigration Judge Jeffrey Muñoz. On January 23, 2026, the Immigration Judge issued a written bond order denying bond. A true and correct copy of the Immigration Judge's written order is attached as Exhibit E.
4. Petitioner has now been detained at Imperial Regional Detention Facility since November 11, 2025. Petitioner has no criminal history, has complied with immigration proceedings for more than two years, and has a pending asylum application with an individual merits hearing scheduled for February 3, 2026, as well as a pending U-nonimmigrant visa petition filed in April 2025. These filings incentivize Petitioner to continue appearing for removal proceedings.
5. At the January 23, 2026 bond hearing, DHS did not present any individualized evidence of dangerousness or flight risk, other than a copy of Petitioner's driver's license. Petitioner submitted evidence demonstrating no criminal history, fixed residence, mental health treatment history, ties to the community, pending relief applications, and alternative conditions of release, including surrender of his commercial driver's license, a prohibition on commercial driving, regular reporting

1 to ICE, and GPS monitoring. A true and correct copy of the briefing and evidence
2 submitted by Petitioner at the bond hearing is attached as Exhibit G.

3 6. The Immigration Judge's written bond order denied release based on credibility
4 assessments and speculative inferences concerning future employment conduct, and
5 stated that Petitioner "failed his burden" to demonstrate that he was neither a danger
6 nor a flight risk. The written order did not address the evidence submitted by
7 Petitioner relating to lack of criminal history, compliance with immigration
8 proceedings, pending immigration relief, or the availability of less restrictive
9 alternatives to detention. The Immigration Judge also did not reference the mental
10 health evaluation submitted by Petitioner. A true and correct copy of the
11 Immigration Judge's bond order is attached as Exhibit E.

12 7. Based on my review of the hearing and the Immigration Judge's written
13 decision, I believe that the bond hearing failed to provide the procedural safeguards
14 required by the Due Process Clause, including proper allocation of the burden of
15 proof, consideration of evidence relevant to the two permissible statutory bases for
16 detention under 8 U.S.C. § 1226(a), and consideration of less restrictive conditions
17 of release. I further believe that the Immigration Judge's failure to consider the full
18 record and failure to acknowledge less restrictive alternatives created a substantial
19 risk of erroneous deprivation of liberty.

20 8. In my professional judgment, Petitioner's continued civil detention no longer
21 bears a reasonable relationship to a legitimate governmental purpose. Because this
22 Court has already granted habeas relief once and the agency has failed to cure the
23 constitutional violation despite judicial intervention, I do not believe a further
24 remand to the immigration court would be effective. Habeas corpus is therefore
25 necessary to secure Petitioner's release from unlawful custody.

26 9. All exhibits attached to the renewed Petition for Writ of Habeas Corpus are
27 true and correct copies of the documents they purport to be. I obtained these
28 documents from DHS, Petitioner's EOIR file, Petitioner's prior federal habeas
docket, or directly from Petitioner, unless otherwise indicated.

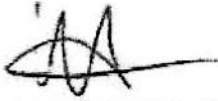
I declare under penalty of perjury under the laws of the United States of America
that the foregoing is true and correct.

1 Executed on this 27th day of January, 2026, at Hawthorne, California.
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Martin O'Hara, Esq.

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Attorney for Petitioner

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5155 Rosecrans Ave., Ste. 250

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Hawthorne, CA 90250

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Tel: (213) 265-7348

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Email: Martin@MartinOharalaw.com

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EXHIBIT E



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
IMPERIAL IMMIGRATION COURT

Respondent Name:
SINGH, PARDEEP

To:
Ohara, Martin
5155 Rosecrans Ave.
Suite 250
Hawthorne, CA 90250

A-Number:



Riders:
In Custody Redetermination Proceedings

Date:
01/23/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

Denied, because

Respondent has failed his burden of proof to prove that he would not be a danger to the community or a flight risk if released from detention.

The bond hearing was conducted pursuant to a habeas corpus Order from the Southern District of California.

The Court finds that Respondent did not provide credible testimony. Respondent's claim that he will continue to work at the exact same 7-11 store where he was the alleged victim of an armed robbery, such that he now suffers from post-traumatic stress disorder and major depressive disorder and generalized anxiety disorder, and that he will not continue to drive a commercial tractor trailer in violation of federal regulations (49 C.F.R. § 391.11(b)(2)) is not credible. Respondent renewed his commercial drivers license after he was the alleged victim of an armed robbery, thus signifying his intent to continue to drive commercial vehicles in violation of federal regulations. Respondent's own actions belie his testimonial promise that he will not drive commercial vehicles if released from detention.

Respondent also provided non-credible testimony, and directly contradicted a mental health evaluation that he filed with the Court, when he claimed that he was told that he must do the mental health interview in English and when Respondent testified that he had no idea he could ask for an interpreter. The report states that English was the Respondent's preferred language. The Court credits the report of a disinterested mental health professional over the Respondent's self-interested testimony where he is willing to say what he needs to say to be released from detention.

"A respondent's character is one of the factors we consider in determining the necessity for or the amount of a bond." Matter of Andrade, 19 I&N Dec. 488, 490 (BIA 1987). Respondent's poor credibility demonstrates a serious lack of character when he swore to tell the truth but chose not to do so during his testimony. That demonstrates a total disregard for U.S. law (not to lie under oath). His non-credible testimony leaves the Court convinced that Respondent will in fact continue to drive commercial vehicles in violation of regulation because no rational human being would continue to work at the same 7-11 where they were the victim of armed robbery when they have a way to work that does not involve the risk of armed robbery and does not aggravate any mental health issues incurred from the alleged armed robbery.

Respondent's poor credibility also demonstrates risk of flight in that any promise by R to report for removal if he is ordered removed while in a non-detained status carries little weight from someone with adverse credibility and a poor character for truthfulness.

- Granted. It is ordered that Respondent be:
 - released from custody on his own recognizance.
 - released from custody under bond of \$
 - other:

- Other:

Immigration Judge: Munoz, Jeffrey V. 01/23/2026

Appeal: Department of Homeland Security: waived reserved
Respondent: waived reserved

Appeal Due: 02/23/2026

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : SINGH, PARDEEP | A-Number :

Riders:

Date: 01/23/2026 By: LUGO, CASSANDRA, Court Staff