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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 **PARDEEP SHARMA**
12 **aka PARDEEP SINGH**

13 *Petitioner,*

Case No.: 3:26-cv-00513-JLS-SBC

14 v.

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

24 *Respondents.*

**SUPPLEMENT TO HABEAS
CORPUS PETITION AND TRO
BRIEFING**

1 Petitioner respectfully submits this Supplemental Brief in further support of his
2 pending Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 and Request for a
3 Temporary Restraining Order. The purpose of this filing is to supplement the previously-
4 filed submissions, to clarify the constitutional basis for relief, and to explain why
5 continued detention violates the Due Process Clause notwithstanding the bond
6 proceedings held after the filing of the original habeas petition.
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9 **I. INTRODUCTION AND PROCEDURAL POSTURE**
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11 Petitioner is a native and citizen of India who was previously released from
12 immigration custody on an Order of Release on Recognizance (“OREC”), complied fully
13 with its terms, secured lawful employment, maintained a stable residence, applied for
14 asylum in January 2024, and filed a U-visa petition in April 2025. Petitioner has no
15 criminal history whatsoever, not even an arrest or traffic ticket. After more than two years
16 in the community and diligently pursuing his claims for immigration relief, Petitioner
17 was taken back into ICE custody on November 11, 2025 without advance notice and
18 without a warrant while outside the residence of one of his friends.
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22 Petitioner filed a first habeas corpus petition in this Court challenging that re-
23 detention under the Due Process Clause. On December 18, 2025, the District Court
24 granted the petition and required the Government to provide Petitioner with a bond
25 hearing. Bond proceedings were conducted, and on January 23, 2026 the Immigration
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1 Judge denied bond on adverse credibility grounds and purported “flight risk” concerns
2 wholly untethered to danger or flight risk.
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4 Petitioner now faces a final asylum merits hearing in immigration court on
5 February 3, 2026, and continued detention is impairing his ability to litigate that
6 proceeding, prepare testimony, gather corroboration, and coordinate with counsel.
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8 On January 27, 2026, Petitioner filed the present habeas petition challenging the
9 adequacy of that proceeding and concurrently sought a temporary restraining order
10 seeking release pending adjudication. Petitioner’s final asylum merits hearing is set for
11 February 3, 2026, and continued detention is impeding his ability to prepare his
12 testimony, gather corroborating evidence, and consult with counsel.
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15 The issue presented is whether a post-hoc bond proceeding, relying on adverse
16 credibility findings unrelated to danger or flight risk and unaccompanied by the
17 procedural safeguards required by the Due Process Clause, cures the constitutional injury
18 underlying the habeas petition. It does not. As explained below, Petitioner’s prior release
19 created a protected liberty interest; revocation of that liberty required constitutionally
20 adequate procedures; the bond hearing did not supply them; and continued detention is
21 unlawful under 28 U.S.C. § 2241 and the Fifth Amendment.
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25 **II. PETITIONER’S PRIOR RELEASE ON OREC CREATED A**
26 **PROTECTED LIBERTY INTEREST**

27 The Fifth Amendment guarantees that “[n]o person shall be ... deprived of life,
28 liberty, or property, without due process of law.” U.S. Const. amend. V. “[T]he Due

1 Process Clause applies to all ‘persons’ within the United States, including aliens, whether
2 their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*,
3 533 U.S. 678, 693 (2001). “[I]t is well established that the Fifth Amendment entitles
4 aliens to due process of law in deportation proceedings.” *Reno v. Flores*, 507 U.S. 292,
5 306 (1993). The Due Process Clause “requires some kind of a hearing before the State
6 deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).
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10 Although the Government retains initial discretion to detain or release noncitizens
11 pending removal proceedings, that discretion does not eliminate the liberty interest
12 triggered by actual release. When the Government releases an individual under
13 conditions, that release creates “an implicit promise” that liberty “will be revoked only if
14 [the individual] fails to live up to the ... conditions [of release].” *Morrissey v. Brewer*,
15 408 U.S. 471, 482 (1972). District courts have applied that principle to noncitizens
16 released on OREC, recognizing that such individuals “retain a protected interest in their
17 liberty.” *Pinchi v. Noem*, 2025 WL 2084921, at *3 (N.D. Cal. July 25, 2025) (citations
18 omitted); see also *Noori*, 2025 WL 2800149, at *10; *Matute v. Wofford*, 2025 WL
19 2817795, at *5 (E.D. Cal. Oct. 3, 2025).
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24 Petitioner satisfied all conditions of his OREC, lived and worked in the community
25 for more nearly three years, has no arrests, traffic tickets or criminal record, and pursued
26 lawful avenues of immigration relief, including asylum and U-nonimmigrant visa. These
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1 facts place Petitioner squarely within the protected liberty interest recognized by these
2 decisions.

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4 **III. DUE PROCESS REQUIRED PROCEDURAL PROTECTIONS**
5 **BEFORE RE-DETENTION**

6 Once a noncitizen has been released, “the government’s decision to release an
7 individual from custody creates an implicit promise ... that their liberty will be revoked
8 only if they fail to live up to the ... conditions.” *Pinchi*, 2025 WL 2084921, at *3
9 (quoting *Morrissey*, 408 U.S. at 482). For that reason, “the Due Process Clause requires
10 procedural protections before [a noncitizen] can be deprived of that interest.” *Mathews v.*
11 *Eldridge*, 424 U.S. 319, 335 (1976).

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14 The procedural requirements in this context are not unusual. District courts have
15 held that before re-detention, the Government must provide (1) notice of the claimed
16 grounds for revocation; (2) a hearing before a neutral decisionmaker; and (3) a
17 determination that continued detention is justified based on danger to the community or
18 risk of flight. See, e.g., *Pinchi*, 2025 WL 2084921, at *4; *Alegria Palma v. LaRose*, No.
19 25-cv-1942 BJC (MMP) (S.D. Cal. Aug. 11, 2025) (granting TRO where release was
20 revoked without pre-deprivation procedures); *Navarro Sanchez*, 2025 WL 2770629, at *5
21 (S.D. Cal. 2025) (granting habeas relief and ordering release to prior OREC conditions).

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24 Here, Petitioner’s re-detention occurred without notice, without advance
25 explanation, and without an opportunity to contest revocation prior to loss of liberty. That
26 deprivation violated the Due Process Clause.
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1 **IV. APPLICATION OF THE *MATHEWS v. ELDRIDGE* FACTORS**

2 Under *Mathews*, courts balance three factors to determine the process required:

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- 4 (1) the private interest affected;
- 5 (2) the risk of erroneous deprivation under current procedures; and
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- 7 (3) the Government’s interest and burdens associated with additional
- 8 process.

9 *Mathews v. Eldridge*, 424 U.S. at 335.

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11 **A. Private Interest**

12 Petitioner’s private interest is substantial. “Freedom from imprisonment—from

13 government custody, detention, or other forms of physical restraint—lies at the heart of

14 the liberty the Due Process Clause protects.” *Zadvydas*, 533 U.S. at 690. While on

15 OREC, Petitioner resided at a fixed address, obtained and maintained gainful

16 employment at a local 7-11 (at which he was the victim of a robbery, which underlies the

17 basis for his U-visa petition), and developed strong community ties, friends and a life in

18 the United States. See *Morrissey*, 408 U.S. at 482 (“Subject to the conditions of his

19 parole, he can be gainfully employed and is free to be with family and friends and to form

20 the other enduring attachments of normal life.”). Petitioner also pursued lawful

21 immigration relief by filing for asylum and later a U-visa. Courts have recognized these

22 interests as significant. See *Pinchi*, 2025 WL 2084921, at *4; *Noori*, 2025 WL 2800149,

23 at *10; *Matute*, 2025 WL 2817795, at *5.

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1 **B. Risk of Erroneous Deprivation**

2 The risk of erroneous deprivation here is high. Petitioner’s re-detention occurred
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4 without pre-deprivation notice or hearing, despite full compliance with OREC and
5 absence of any changed circumstances whatsoever. See *Saravia v. Sessions*, 280 F. Supp.
6 3d 1168, 1760 (N.D. Cal. 2017) (“Release reflects a determination by the government
7 that the noncitizen is not a danger to the community or a flight risk.”). Petitioner was
8 snatched randomly by ICE agents while in public visiting friends. The subsequent bond
9 hearing did not mitigate that risk of erroneous deprivation. As explained below, that
10 proceeding failed to address the Due Process violation at issue and relied on adverse
11 credibility reasoning completely unmoored from flight risk or danger.
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15 **C. Government Interest**

16 The Government’s interest in bypassing process before re-detention is “low.”
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18 *Pinchi*, 2025 WL 2084921, at *5; *Matute*, 2025 WL 2817795, at *6; *Ortega v. Bonnar*,
19 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019). The Government has not identified burdens
20 associated with notice, hearing, or a reasoned determination. See *Singh v. Andrews*, 2025
21 WL 1918679, at *7 (E.D. Cal. July 11, 2025) (“Where, as here, the petitioner has not
22 received any bond or custody hearing, the risk of an erroneous deprivation of liberty is
23 high...”).
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26 All three *Mathews* factors favor Petitioner.
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1 **V. THE DEFECTIVE BOND PROCEEDING DID NOT CURE THE DUE**
2 **PROCESS VIOLATION**

3 The subsequent bond hearings did not provide constitutionally adequate process
4 for two independent reasons.
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6 First, the bond hearings occurred only after re-detention, thus failing to provide the
7 *pre*-deprivation procedures required where liberty has already vested. Courts have held
8 that “the relief [a petitioner] is entitled to is not limited to a bond hearing” where the
9 detainee has a protected liberty interest in remaining out of custody. *Pinchi*, 2025 WL
10 2084921, at *4; see also *Noori*, 2025 WL 2800149, at *10; *Matute*, 2025 WL 2817795, at
11 *5.
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14 Second, the denial of bond rested on adverse credibility findings completely
15 unrelated to flight risk or danger, in violation of Due Process and controlling caselaw
16 governing bond proceedings. The immigration judge failed to consider and weigh
17 substantial evidence in the record, including the fact that Petitioner has no criminal
18 history whatsoever, complied with all conditions of release, resides at a fixed address, has
19 a job offer to resume employment, and has pursued asylum and U-visa relief. The
20 immigration judge failed to consider alternatives to release or a bond amount high
21 enough to ensure Petitioner’s attendance at court hearings. None of the facts in
22 Petitioner’s case suggests danger or flight risk. To the contrary, these facts weigh against
23 detention. A bond hearing that turns on speculative credibility assessments untethered
24 from the statutory purpose of detention cannot cure the deprivation. See *Navarro*
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1 *Sanchez*, 2025 WL 2770629, at *5 (ordering release where revocation lacked procedural
2 basis and was not justified by risk).
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4 **VI. CONTINUED DETENTION IS CAUSING IRREPARABLE HARM**
5 **BECAUSE PETITIONER FACES A FINAL ASYLUM MERITS HEARING**
6 **ON FEBRUARY 3, 2026**

7 Petitioner's removal proceedings are scheduled for a final merits hearing on
8 February 3, 2026. Detention is significantly impairing his ability to prepare his testimony,
9 meet with counsel, gather corroborating documentation, and present evidence. Counsel
10 has already filed a motion to continue that hearing, however, that motion has not yet been
11 ruled on, so presumably the hearing will proceed as scheduled. Courts recognize that
12 detention may constitute irreparable harm where it impedes a noncitizen's ability to
13 litigate removal. See *Pinchi*, 2025 WL 2084921, at *5 (recognizing detainee's interest in
14 "continuing the process of seeking asylum"). Because asylum proceedings require
15 credibility, corroboration, and preparation, Petitioner's ongoing detention jeopardizes the
16 fairness and integrity of those proceedings.
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21 **VII. THE APPROPRIATE REMEDY IS IMMEDIATE RELEASE TO**
22 **PETITIONER'S PRIOR OREC CONDITIONS**

23 When detention violates the Due Process Clause, habeas corpus authorizes release.
24 See 28 U.S.C. § 2241(a). District courts have ordered immediate release to prior OREC
25 conditions where a noncitizen with a protected liberty interest was unlawfully re-
26 detained. See *Navarro Sanchez*, 2025 WL 2770629, at *5; *Alegria Palma*, No. 25-cv-
27 1942 (S.D. Cal. Aug. 11, 2025). Release to prior OREC conditions aligns with the
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1 remedial principle that the government must restore the individual to the “status quo
2 ante” where liberty was taken without due process. *Morrissey*, 408 U.S. at 482. Because
3 Petitioner complied fully with OREC, posed no danger or flight risk, and pursued lawful
4 immigration relief, release to the same conditions is warranted.
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6 7 **VIII. CONCLUSION**

8 For the foregoing reasons, the Court should grant Petitioner’s habeas petition and
9 TRO and order Petitioner’s immediate release to the conditions of his prior Order of
10 Release on Recognizance. In the alternative, the Court should grant any interim relief
11 necessary to protect Petitioner’s ability to litigate his asylum proceedings scheduled for
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15 DATED this 28th of January, 2026
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