

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

---

HARMANJIT SINGH,  
Petitioner,

v.

KRISTI NOEM, *in her official capacity as Secretary of the Department of Homeland Security*; PAMELA BONDI, *in her official capacity as Attorney General of the United States*; TODD M. LYONS, *in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement*; MARISA FLORES, *in her official capacity as Field Office Director of the El Paso Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations*; DORA CASTRO, *in her official capacity as Warden of the Otero County Processing Center*;

Respondents.

Case No. \_\_\_\_\_

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS**  
**PURSUANT TO 28 U.S.C. § 2241**

1. Petitioner Harmanjit Singh is a 26-year-old citizen of India who entered the United States in October 2018 as a young adult. Mr. Singh has now lived in the United States for over seven years. He has been detained by the U.S. Department of Homeland Security (“DHS”) since January 12, 2026, and is currently held at the Otero County Processing Center in Chaparral, New Mexico, facing removal proceedings. Mr. Singh has been

detained for eighteen days without any individualized custody determination or meaningful opportunity to contest his confinement.

2. The administrative process provides no remedy. Under binding Board of Immigration Appeals precedent in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and the regulation at 8 C.F.R. § 1003.19(h)(2)(i)(B), the Immigration Judge assigned to Mr. Singh's case is categorically stripped of jurisdiction to conduct a bond hearing. A Master Calendar Hearing occurred on January 22, 2026, but offered no opportunity for bond. Although removal proceedings are ongoing, these hearings offer no possibility of release. The administrative remedy is void of any relief power, making exhaustion futile and leaving this Court as Mr. Singh's only avenue for constitutional relief.
3. The Supreme Court has made clear that prolonged immigration detention without a meaningful opportunity to challenge that detention violates the Due Process Clause of the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 531 (2003) (Kennedy, J., concurring). Freedom from physical restraint "lies at the heart of the liberty that [Clause] protects." *Zadvydas*, 533 U.S. at 690. The government's detention of Mr. Singh, without providing him any process to challenge that detention, deprives him of this fundamental liberty interest in violation of the Constitution.
4. Moreover, Mr. Singh's continued detention serves no legitimate governmental purpose. Civil immigration detention is not punitive; it may only be used to ensure appearance at immigration proceedings and prevent flight. *Zadvydas*, 533 U.S. at 690. Here, Mr. Singh has lived in the United States for over seven years, has established a life here, and has no reason to abscond from his immigration proceedings. Detaining him under these

circumstances is arbitrary, serves no legitimate purpose, and violates both his statutory and constitutional rights.

5. Mr. Singh respectfully petitions this Court for a Writ of Habeas Corpus to remedy his unlawful detention and for declaratory and injunctive relief to ensure that he receives the due process protections guaranteed by the Constitution.

### **JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction under Art. I, § 9, cl. 2 of the U.S. Constitution (Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. § 2201 (Declaratory Judgment Act).
7. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Soberanes v. Comfort*, 388 F.3d 1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas.”).
8. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and (e)(1) because Petitioner is detained within the District of New Mexico and his immediate physical custodian is located within this District. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004); *see also United States v. Scott*, 803 F.2d 1095, 1096 (10th Cir. 1986) (“A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined.”).

9. No petition for a writ of habeas corpus has previously been filed in any court regarding Petitioner.

### **PARTIES**

10. Harmanjit Singh, named Petitioner, is a 26-year-old citizen of India who entered the United States on or about October 24, 2018. He has lived in the United States for over seven years. Since being detained on January 12, 2026, Mr. Singh has been held in ICE custody at the Otero County Processing Center in Chaparral, New Mexico.
11. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security (“DHS”). In this capacity, she is responsible for overseeing ICE’s day-to-day operations, including Respondents Lyons and De Anda-Ybarra. Secretary Noem is the ultimate legal custodian of Mr. Singh.
12. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. As Attorney General, Respondent Bondi oversees the immigration court system, including the immigration judges who conduct removal proceedings and bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). She is legally responsible for administering Mr. Singh’s removal proceedings, and as such, she is a legal custodian of Mr. Singh.
13. Respondent Todd M. Lyons is named in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement and as such is a legal custodian of Mr. Singh.
14. Respondent Marisa Flores is named in her official capacity as the Field Office Director for the ICE El Paso Field Office. As Field Office Director, Respondent De Anda-Ybarra

oversees ICE's enforcement and removal operations in West Texas and New Mexico. As such, she is a legal custodian of Mr. Singh.

15. Respondent Dora Castro is the Warden of the Otero County Processing Center, where Mr. Singh is currently detained. She is a legal custodian of Mr. Singh and is named in her official capacity.

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

16. Mr. Singh has no adequate administrative remedies to exhaust. Prudential exhaustion is excused where "administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void." *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004).
17. The charging document for Mr. Singh's removal proceedings, the Notice to Appear ("NTA") issued January 8, 2026, alleges that Mr. Singh "arrived in the United States at or near OTAY MESA, CA, on or about October 24, 2018" and that he "was not then admitted or paroled after inspection by an Immigration Officer." These factual allegations categorically classify Mr. Singh as an individual who entered without inspection or as an "arriving alien" within the meaning of the Immigration and Nationality Act.
18. Under controlling Board of Immigration Appeals precedent in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and the corresponding regulation at 8 C.F.R. § 1003.19(h)(2)(i)(B), Immigration Judges are categorically stripped of jurisdiction to conduct bond hearings for individuals in Mr. Singh's classification. The regulation expressly provides that an Immigration Judge "shall not redetermine" custody for aliens

“arriving in the United States” or those “whose claim to lawful admission has not been established.” 8 C.F.R. § 1003.19(h)(2)(i)(B).

19. A Master Calendar Hearing occurred on January 22, 2026, but offered no opportunity for bond. Although removal proceedings are ongoing, these hearings offer no possibility of release. The Immigration Judge lacks statutory authority to redetermine custody for aliens in Petitioner’s classification. Therefore, the administrative process is void of any relief power. Requiring Petitioner to continue through administrative hearings merely to have jurisdiction denied would be “not efficient,” would cause “irreparable harm” by prolonging his unlawful detention, and would constitute a “futile gesture.” *See Laing*, 370 F.3d at 1000.

20. Moreover, the agency has predetermined through binding precedent that it lacks the power to release Mr. Singh. The administrative remedy is thus “inadequate” and “not efficacious” as a matter of law. *Id.* Engaging in this void administrative process would irreparably harm Petitioner by extending his unconstitutional detention while offering no possibility of relief.

21. Therefore, a writ of habeas corpus is the sole avenue to vindicate Mr. Singh’s constitutional and statutory rights and restore his liberty. This Court has jurisdiction to hear this petition and must exercise it to prevent Mr. Singh’s continued detention in violation of the Due Process Clause of the Fifth Amendment.

## **LEGAL BACKGROUND AND STATEMENT OF FACTS**

### **A. Legal Standards Governing Immigration Detention**

22. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status.

*Zadvydas*, 533 U.S. at 693; *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). Freedom from physical restraint “lies at the heart of the liberty that the Due Process Clause protects.”

*Zadvydas*, 533 U.S. at 690.

23. Immigration detention is civil, not criminal, and may only be used to serve the limited purposes of ensuring appearance at removal proceedings and preventing flight. *Id.* at 690; *Demore*, 538 U.S. at 527–28. Detention that does not reasonably relate to these purposes violates due process. *Zadvydas*, 533 U.S. at 690; *see also Wong Wing v. United States*, 163 U.S. 228, 235 (1896).
24. In *Zadvydas*, the Supreme Court held that indefinite detention of noncitizens pending removal violates the Due Process Clause, explaining that “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” 533 U.S. at 693. The Court recognized that while the government has an interest in detaining individuals subject to removal, that interest must be balanced against the individual’s liberty interest. *Id.* at 690–96.
25. Similarly, in *Demore v. Kim*, Justice Kennedy’s concurring opinion emphasized that even mandatory detention under 8 U.S.C. § 1226(c) must be subject to temporal limitations to avoid constitutional concerns. 538 U.S. at 532–33 (Kennedy, J., concurring). Justice Kennedy explained that detention under § 1226(c) is constitutionally permissible only if it is of “limited duration” and observed that the average detention at the time was 47 days, with the vast majority resolved within five months. *Id.* He made clear that “[i]f the detention [were] to continue beyond the period reasonably necessary to bring about [the noncitizen’s] removal from the United States, it would become an unauthorized, hence unlawful, detention.” *Id.* at 532–33.

26. The Tenth Circuit has likewise recognized that prolonged detention without a bond hearing raises serious constitutional concerns. In *Soberanes v. Comfort*, the court held that noncitizens detained for extended periods are entitled to a bond hearing where the government must justify continued detention. 388 F.3d at 1310–11. The court explained that such hearings are necessary to ensure that detention serves its limited purpose of ensuring appearance and preventing flight, rather than becoming punitive. *Id.*
27. These principles apply with full force to Mr. Singh’s case. He has been detained for over eighteen days without any individualized determination of whether his continued detention is necessary to ensure his appearance at removal proceedings. The government has provided no evidence that he poses a flight risk or a danger to the community, and his prolonged detention without a hearing violates the constitutional protections outlined above.


#### **B. The Futility Exception to Prudential Exhaustion**

28. Although there is no statutory exhaustion requirement under 28 U.S.C. § 2241, courts have recognized a prudential exhaustion doctrine in habeas cases. However, courts may waive this requirement where “administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.” *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004) (quoting *S.E.C. v. G.C. George Sec., Inc.*, 637 F.2d 685, 688 (9th Cir. 1981)).
29. The futility exception applies when the agency has predetermined through statute, regulation, or binding precedent that it lacks the power to grant the relief sought. *See McCarthy v. Madigan*, 503 U.S. 140, 148 (1992), *superseded by statute on other grounds*

as stated in *Booth v. Churner*, 532 U.S. 731 (2001) (exhaustion not required where “there is some doubt as to whether the agency was empowered to grant effective relief”).

30. In immigration detention cases, requiring exhaustion through appeals to the Board of Immigration Appeals can take months or years, causing irreparable harm by continuing to deprive a person of liberty. Where, as here, the Immigration Judge is stripped of jurisdiction by regulation and binding precedent, requiring an individual to exhaust administrative remedies would be futile because the agency has no authority to provide the requested relief.
31. Mr. Singh’s case presents a paradigmatic example of futility. The Board of Immigration Appeals has held in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), that Immigration Judges lack jurisdiction to conduct bond hearings for individuals classified as “arriving aliens” or those who have not established lawful admission. This precedent is codified in 8 C.F.R. § 1003.19(h)(2)(i)(B), which expressly provides that an Immigration Judge “shall not redetermine” custody for such individuals. Because the agency has predetermined that it lacks the power to grant Mr. Singh a bond hearing, administrative exhaustion would be a futile gesture.

### **C. Factual Background**

32. Harmanjit Singh was born on  in India. He is a citizen of India.
33. On or about October 24, 2018, Mr. Singh arrived in the United States at or near Otay Mesa, California. According to the Notice to Appear issued by DHS, Mr. Singh was not admitted or paroled after inspection by an immigration officer at that time.

34. Since entering the United States in October 2018, Mr. Singh has lived continuously in the United States for over seven years. During this time, he has established a life in this country and has developed significant ties to the community.
35. On January 12, 2026, Mr. Singh was taken into custody by U.S. Immigration and Customs Enforcement (“ICE”). He has been detained continuously since that date at the Otero County Processing Center, located at 26 McGregor Range Road, Chaparral, New Mexico 88081.
36. On January 8, 2026, DHS issued a Notice to Appear charging Mr. Singh as removable under sections 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act (“INA”). Specifically, DHS alleges that:
- a. Mr. Singh is not a citizen or national of the United States;
  - b. He is a native of India and a citizen of India;
  - c. He arrived in the United States at or near Otay Mesa, California, on or about October 24, 2018;
  - d. He was not then admitted or paroled after inspection by an Immigration Officer; and
  - e. He is an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the INA.
37. The NTA orders Mr. Singh to appear before an immigration judge at 8915 Montana Avenue, El Paso, Texas 79925. A Master Calendar Hearing occurred on January 22, 2026. Mr. Singh’s removal proceedings are ongoing before the immigration court.

38. Mr. Singh has not been provided with a bond hearing or any individualized custody determination since his detention began on January 12, 2026. He has had no opportunity to present evidence regarding his ties to the United States, his lack of criminal history, or the absence of any flight risk or danger to the community.
39. As of the date of this petition, Mr. Singh has been detained for eighteen days. He faces the prospect of continued indefinite detention without any process to challenge the legality or necessity of his confinement.
40. Mr. Singh’s continued detention inflicts substantial harm. He is separated from his community, unable to pursue employment or education, and subjected to the physical and psychological toll of confinement. This harm is compounded by the uncertainty of when, if ever, he will be released.
41. The government’s decision to detain Mr. Singh, without any individualized determination of necessity and without providing him a meaningful opportunity to challenge his detention, violates his constitutional rights and is arbitrary and unlawful.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **VIOLATION OF THE SUBSTANTIVE DUE PROCESS PROTECTIONS OF THE FIFTH AMENDMENT OF THE CONSTITUTION**

42. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.
43. The Fifth Amendment to the United States Constitution provides that no person shall “be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. The Supreme Court has long recognized that noncitizens physically present in the United

States are entitled to the protections of the Due Process Clause. *Zadvydas*, 533 U.S. at 693; *Mathews*, 426 U.S. at 77.

44. Freedom from physical restraint “lies at the heart of the liberty that [Clause] protects.” *Zadvydas*, 533 U.S. at 690. Detention of a noncitizen violates substantive due process unless it “bears a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527 (citing *Zadvydas*, 533 U.S. at 690).
45. The purpose of civil immigration detention is to ensure the appearance of noncitizens at removal proceedings and to prevent flight. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. Detention that does not serve these purposes—or that continues beyond the period reasonably necessary to serve them—violates the Due Process Clause. *Zadvydas*, 533 U.S. at 690.
46. Mr. Singh’s detention violates substantive due process for multiple reasons:
  - a. Mr. Singh’s detention does not bear a reasonable relation to its stated purpose. Mr. Singh has lived in the United States for over seven years. He has established deep ties to this country. There is no evidence that he poses a flight risk or a danger to the community. Under these circumstances, detention is not reasonably related to ensuring his appearance at removal proceedings.
  - b. Mr. Singh’s detention has exceeded any reasonable duration. As Justice Kennedy explained in *Demore*, detention becomes unauthorized and unlawful if it continues beyond the period reasonably necessary to bring about removal. 538 U.S. at 532–33 (Kennedy, J., concurring). Here, Mr. Singh has been detained for over eighteen days without any individualized determination that his continued detention is necessary. While

his removal proceedings are ongoing, there is no indication that his release would prevent him from appearing at future hearings.

c. Mr. Singh has been afforded no process to challenge his detention. The government has not provided Mr. Singh with a bond hearing or any other individualized custody determination. He has had no opportunity to present evidence of his ties to the United States or to contest the government's assertion that his detention is necessary. This lack of process independently violates his due process rights. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

47. For these reasons, Mr. Singh's continued detention violates the substantive due process protections of the Fifth Amendment and is causing him ongoing, substantial, and irreparable harm.

## **COUNT II**

### **VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT**

48. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.

49. The Administrative Procedure Act ("APA") provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

50. The government's decision to detain Mr. Singh despite his long-standing ties to the United States, his lack of any criminal history suggesting a danger to the community, and the absence of any evidence that he poses a flight risk, is arbitrary, capricious, and an abuse of discretion.

51. Agency action is arbitrary and capricious when the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).
52. Here, the government has offered no explanation for why Mr. Singh’s detention is necessary. The government has not articulated any basis for believing that Mr. Singh poses a flight risk or a danger to the community. To the contrary, the evidence demonstrates that Mr. Singh has lived in the United States for over seven years and has established significant ties to this country. Under these circumstances, the decision to detain him is arbitrary and capricious.
53. For these reasons, this Court should find that the decision to detain Mr. Singh is arbitrary, capricious, and unsupported by substantial evidence in violation of 5 U.S.C. §§ 706(2)(A) and (E).

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that the Court grant the following relief:

- A.** Assume jurisdiction over this matter;
- B.** Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days absent good cause for a short extension not exceeding twenty days, and set the matter for a prompt hearing;
- C.** Prohibit Petitioner’s removal from the United States and transfer outside the District of New Mexico during the pendency of this action;
- D.** Declare that Petitioner’s arrest and continued detention are unlawful;

- E. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody;
- F. In the alternative, conduct an immediate, constitutionally adequate individualized custody determination at which the government bears the burden to justify continued detention and the Court considers release on bond or other reasonable conditions of supervision;
- G. Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- H. Grant such other and further relief as law and justice require.

Respectfully Submitted,

/s/ *Vivianna Tijerino*

Vivianna Inez Tijerino, Esq.  
Florida Bar No. 1058346  
Garcia & Qayum Law Group, P.A.  
3475 West Flagler Street  
Miami, FL 33135  
(305) 230-4020 Tel  
(305) 503-7370 Fax  
Vivianna@GQLawGroup.com  
*Local Counsel for Petitioner*

Dated: January 30, 2026

/s/ *Amit Deshmukh*

Amit Deshmukh, Esq.  
DESH LAW LLC  
1 Meadowlands Plaza, Suite 200  
East Rutherford, NJ 07073  
T: (908) 639-3012  
E: Amit@LawProsUSA.com

*Counsel for Petitioner*  
*Pro Hac Vice Application Pending*

Dated: January 30, 2026

**VERIFICATION BY ATTORNEY ON BEHALF OF PETITIONER  
PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed with Petitioner the events described in this Petition. On the basis of those discussions and my review of the documents provided by the government, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

**/s/ Amit Deshmukh**

Amit Deshmukh, Esq.  
DESH LAW LLC  
1 Meadowlands Plaza, Suite 200  
East Rutherford, NJ 07073  
T: (908) 639-3012  
E: Amit@LawProsUSA.com

*Counsel for Petitioner  
Pro Hac Vice Application Pending*

Date: January 30, 2026