

**U.S. DISTRICT COURT  
WESTERN DISTRICT OF OKLAHOMA**

(1) Rashpal Singh,	)	
	)	
Petitioner,	)	
-vs.-	)	Case No.
	)	
(1) Kristi Noem, Secretary, U.S.	)	
Department of Homeland Security,	)	
in her official capacity;	)	
(2) Pamela Bondi, U.S. Attorney	)	
General, in her official capacity;	)	
(3) Todd Lyons, Acting Director,	)	
Immigration and Customs	)	
Enforcement, in his official capacity;	)	
(4) Joshua Johnson, Field Office	)	
Director of Enforcement and	)	
Removal Operations, Dallas Field	)	
Office, Immigration and Customs	)	
Enforcement, in his official capacity;	)	
(5) Daren Margolin, Director of the	)	
Executive Office of Immigration	)	
Review, in his official capacity;	)	
(6) Scarlet Grant, Warden of Cimarron	)	
Correctional Facility, in her official	)	
capacity;	)	
	)	
Respondents.	)	

**PETITION FOR WRIT OF HABEAS CORPUS**

**INTRODUCTION**

1. Petitioner Rashpal Singh is in the physical custody of Respondents at the Cimarron Correctional Facility in Cushing, Oklahoma. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner was charged with having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. The Department of Homeland Security ("DHS") issued a new policy on July 8, 2025, instructing all Immigration and Customs Enforcement ("ICE") employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)-i.e., those who entered the United States without admission or inspection-to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. According to one court, DHS "revisited its legal position on detention and release authorities" and "determined that [section 1225]..., rather than [section 1226], is the applicable immigration detention authority for all applicants for admission," meaning all non-citizens who were "present in the United States [without having] been admitted," 8 U.S.C. § 1225(a)(1). *See Diaz Martinez v. Hyde*, 792 F. Supp. 3d 211, 217–18 & n.10 (D. Mass. 2025) (quoting the same internal ICE memorandum issued by Acting Director Todd M. Lyons).

4. Thereafter, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and are therefore ineligible to be released on bond.

5. Respondents' abrupt and unexplained departure from settled practice is plainly contrary to the statutory framework, contrary to decades of agency practice and violates the Due Process Clause.

6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released or in the alternative require Respondents to provide a bond hearing within five days.

### **JURISDICTION**

7. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Cimarron Correctional Facility in Cushing, Oklahoma.

8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1), (3) (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, section 9, clause 2 of the U.S. Constitution (the Suspension Clause), U.S. Const. amend. V (the Due Process Clause) and the common law writ as preserved by the Suspension Clause.

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

### **VENUE**

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Western District of Oklahoma, the judicial district in which Petitioner currently is detained. Respondent Scarlet Grant, Warden of the Cimarron Correctional Facility, the immediate custodian of Petitioner, is in the Western District of Oklahoma.

11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Western District of Oklahoma.

### REQUIREMENTS OF 28 U.S.C. § 2243

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

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

### PARTIES

14. Petitioner Rashpal Singh is a citizen of India who has been in immigration detention since September 7, 2025. He was taken into custody by the Oklahoma Highway Patrol. After taking custody of Petitioner, Immigration and Customs Enforcement ("ICE") did not set bond. Petitioner did not apply for a bond with the Immigration Court due to the Lyons memo and the binding decision of the BIA in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, which is responsible for Petitioner's

detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

17. Respondent Todd Lyons is the Acting Director for Immigration and Customs Enforcement. As such, he is responsible for custody decisions affecting Petitioner. He is named in his official capacity.

18. Respondent Joshua Johnson is the Field Office Director of Enforcement and Removal Operations of the Dallas ICE Field Office. As such, he is responsible for custody decisions affecting Petitioner. He is named in his official capacity.

19. Respondent Daren Margolin is the Director of EOIR with the Department of Justice. EOIR (the Executive Office for Immigration Review) includes the immigration court system. He is sued in his official capacity.

20. Respondent Scarlet Grant is employed by the Cimarron Correctional Facility as warden of the facility where Petitioner is detained. She has immediate physical custody of Petitioner. She is sued in her official capacity.

#### **FACTS**

21. Petitioner entered the United States of America without inspection or admission on April 5, 2023. Exhibit 1.

22. On April 7, 2023, Petitioner was released on an Order of Release on Recognizance, which stated, "You have been arrested and placed in removal proceedings.

In accordance with section 236 of the Immigration and Nationality Act..., you are being released on your own recognizance...”

23. On June 16, 2023, Petitioner timely filed an application for defensive asylum with the Immigration Court by filing form I-589. That application is pending.

24. Petitioner was taken into custody on September 7, 2025, by the Oklahoma Highway Patrol and transferred to ICE custody where he has remained since that time over 150 days ago.

25. Petitioner had resided without detention in the United States continuously since April 7, 2023 until September 7, 2025.

26. Following Petitioner's arrest, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

27. Petitioner requested a bond hearing but bond was denied due to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), a BIA precedential decision claiming that those who entered the country without admission or parole are ineligible for a bond hearing. Exhibit 2.

28. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

## **CLAIMS FOR RELIEF**

### **COUNT I**

#### **Violation of the INA**

29. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

30. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those released under 8 U.S.C. § 1226. Section 1226 governs a separate (non-mandatory) detention scheme applicable when an individual is “already in the country.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).

31. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

32. Once DHS affirmatively exercised discretion to release Petitioner under § 1226, the government cannot retroactively reclassify him as an “arriving alien” subject to § 1225(b). Custody authority attaches based on procedural posture and cannot be reassigned retroactively through reinterpretation of statutory classification.

## **COUNT II** **Violation of Due Process**

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

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

35. Petitioner has a fundamental interest in liberty and being free from official restraint.

36. Petitioner’s detention is not only prolonged, but categorically immune from individualized review, rendering it constitutionally more suspect than detention subject to periodic bond redetermination.

37. Under the balancing framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner’s strong liberty interest in freedom from physical restraint outweighs the government’s interest in categorical detention without individualized review, particularly where the risk of erroneous deprivation is substantial and no procedural safeguards are provided.

38. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

**COUNT III**  
**Violation of the Administrative Procedure Act**  
**5 U.S.C. §§ 701–706**

39. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs as if fully stated herein.

40. This claim does not seek review of removal proceedings or discretionary custody determinations, but instead challenges Respondents’ statutory authority to detain Petitioner under the cited provision. Accordingly, judicial review is not barred by 8 U.S.C. § 1252.

41. The Administrative Procedure Act (“APA”) provides for judicial review of final agency action and authorizes courts to hold unlawful and set aside agency action that is:

- A. arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

- B. contrary to constitutional right;
- C. in excess of statutory jurisdiction, authority, or limitations; or
- D. without observance of procedure required by law. 5 U.S.C. § 706(2)(A)–(D).

42. Respondents, acting through DHS and ICE, have adopted and implemented a policy interpreting 8 U.S.C. § 1225(b)(2) to require detention without bond for noncitizens present in the United States who were previously released under 8 U.S.C. § 1226.

43. This policy constitutes agency action reviewable under the APA because it represents a definitive position determining the legal basis for Petitioner's detention and has direct and immediate legal consequences for him.

44. Respondents' application of § 1225(b) to Petitioner exceeds statutory authority and is not in accordance with law because:

- A. Petitioner was previously processed and released under § 1226;
- B. The INA establishes distinct detention frameworks under §§ 1225 and 1226; and
- C. Nothing in the statute authorizes retroactive reclassification of custody authority after discretionary release.

45. Accordingly, Respondents' policy and its application to Petitioner exceed statutory authority and must be set aside under 5 U.S.C. § 706(2)(C).

46. Respondents' policy is arbitrary and capricious because it:

- A. Represents a departure from longstanding agency practice;
- B. Fails to provide a reasoned explanation for that departure;
- C. Disregards reliance interests created by prior release determinations; and
- D. Applies a categorical detention rule without individualized assessment.

47. An agency must provide a reasoned explanation when changing policy and must account for reliance interests. See *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009). Respondents failed to do so.

48. To the extent the policy results in prolonged detention without individualized review, it operates contrary to the Due Process Clause and therefore violates 5 U.S.C. § 706(2)(B).

#### PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Western District of Oklahoma while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner under the terms of his prior release or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within five days;
- e. Enter injunctive relief necessary to preserve jurisdiction and prevent irreparable harm, including an order barring transfer, upon the Court's finding that the *Winter* factors are satisfied. *See Winter v. NRDC*, 555 U.S. 7 (2008).
- f. Declare that Petitioner's detention is unlawful;
- g. Set aside Respondents' application of mandatory detention under 8 U.S.C. § 1225(b) to Petitioner pursuant to 5 U.S.C. § 706;
- h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- i. Grant any other and further relief that this Court deems just and proper.

DATED this 6<sup>th</sup> day of February 2026.

s/Steven F. Langer

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ATTORNEY FOR PETITIONER

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Rashpal Singh, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6<sup>th</sup> day of February 2026.

s/Steven F. Langer  
STEVEN F. LANGER