Jagbir Singh Terkiana (CA SBN #339166)
Terkiana PC
PO Box 70280
Sunnyvale, CA 94086
(408) 689-6117
Email: jay@immigration.global

Counsel for Petitioner
Sparsh Singh

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Sparsh Singh [redacted],

Petitioner,
v.

PAMELA BONDI, in her official capacity as Attorney General,

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security,

U.S. DEPARTMENT OF HOMELAND SECURITY,

Warden of Denver Contract Detention Facility,

TODD M. LYONS, in his official capacity as acting director of US Immigration and Customs Enforcement,

Respondents.

Case No.

VERIFIED PETITION FOR HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

IMMIGRATION HABEAS CASE

1. Sparsh Singh ("Petitioner"), by and through undersigned counsel, hereby files this Petition for a Writ of Habeas Corpus challenging his continued detention without access to a bond hearing.
2. Petitioner is a citizen of India. He entered the United States without inspection on or about May 15, 2022. *See* Exhibit A.
3. Petitioner is an asylum seeker who fled India to escape persecution and has been residing in the United States since his entry.
4. On or about October 29, 2025—more than three years after Petitioner began residing in the United States—Petitioner was arrested by U.S. Immigration and Customs Enforcement ("ICE") while delivering food at the United States Air Force Academy. Petitioner is currently detained at the Denver Contract Detention Facility in Colorado. *See* Exhibit B.
5. On January 14, 2026, Petitioner appeared for a scheduled bond hearing before an Immigration Judge. At the hearing, the Immigration Judge inquired whether the Department of Homeland Security ("DHS") had conducted an initial custody determination. Upon DHS's failure to confirm that such a determination had been made, the Immigration Judge directed DHS to complete an initial custody determination and continued the matter to January 20, 2026, for a custody redetermination hearing. *See* Exhibit C.

6. At the custody hearing held on January 20, 2026, the Immigration Judge again asked DHS whether an initial custody determination had been conducted. DHS conceded that no such determination had been completed. Petitioner's counsel reminded the Immigration Judge that the matter had been continued solely for the purpose of allowing DHS to submit the required custody determination. Nevertheless, the Immigration Judge denied bond, stating that she lacked jurisdiction in the absence of an initial custody determination by DHS. *See* Exhibit D.

PARTIES

7. Petitioner, Sparsh Singh is a citizen of India, who is currently in the custody of ICE in Denver Contract Detention Facility, Colorado.

8. Respondent Pamela Bondi, the Attorney General, is the highest-ranking official within the Department of Justice ("DOJ"). Respondent Bondi has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. As the Immigration and Nationality Act ("INA") has not been amended to reflect the designation of the Secretary of the Department of Homeland Security ("DHS") as the administrator and enforcer of immigration laws, Respondent Bondi is sued in her official capacity to the extent that 8 U.S.C. § 1102 gives her authority over immigration law.

9. Respondent Kristi Noem, the Secretary of the DHS, is the highest-ranking official within the DHS. Respondent Noem, by and through her agency for the DHS, is responsible for the implementation of the INA, and for ensuring compliance with applicable federal law. She is also responsible for the detention of non-citizens by ICE. Respondent Noem is sued in her official capacity as an agent of the government of the United States.

10. The DHS is the agency responsible for detaining non-citizens, including Petitioner.

11. Warden of Denver Contract Detention Facility is sued as Petitioner's immediate custodian.

12. Respondent Todd M. Lyons is the Acting Director of the of Immigration and Customs Enforcement. He oversees the custody of all Immigration and Customs Enforcement is also responsible for the detention of non-citizens by ICE. Respondent Lyons is sued in his official capacity as an agent of the government of the United States.

JURISDICTION AND VENUE

13. This Court has jurisdiction over the present action pursuant to 28 U.S.C. § 1331, general federal question jurisdiction; habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution

(the Suspension Clause); and the common law. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2001 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

14. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. *See e.g.*, *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

15. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the Immigration and Customs Enforcement at the Denver Contract Detention Facility, which is in the jurisdiction of the District of Colorado; and there is no real property involved in this action.

LEGAL BACKGROUND

16. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.

17. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or

convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).

18. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be "seeking admission" under § 1225(b)(2).

19. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

20. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208. Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

21. Following the enactment of the IIRIRA, the U.S. Department of Justice's Executive Office of Immigration Review ("EOIR") drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained

under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formed referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

22. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge ("IJ"), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

23. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ,

unless barred from doing so due to their criminal history.

24. In July 2025, however, ICE began asserting that all individuals who entered without inspection should be considered "seeking admission" and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

25. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, departing from the INA's text, federal precedent, and existing regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

26. Defendants' new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Defendants had applied § 1226(a) to people like the Petitioner. Defendants' new policies are thus not only contrary to law but are arbitrary and capricious in violation of the Administrative Procedure Act ("APA"). They were also adopted without complying with the procedural requirements of the APA.

27. Numerous federal courts have rejected this interpretation and instead have consistently found that § 1226, not § 1225(b)(2), authorizes detention of noncitizens who entered without inspection and were later apprehended in the interior of the country. *See e.g.*, *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13,

2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025); *see also Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC) (E.D. Cal. Sept. 23, 2025), attached hereto as Exhibit E, and *Chafla v. Scott*, No. 2:25-cv-00437-SDN (D. Maine Sept. 21, 2025), attached hereto as Exhibit F.

28. Under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, this Court should independently interpret the statute and give the BIA's expansive interpretation of § 1225(b)(2) no weight, as it conflicts with the statute, regulations, and precedent. 603 U.S. 369 (2024).

29. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Following IIRIRA, the Executive Office for Immigration Review ("EOIR") issued regulations clarifying that individuals who entered the country without inspection were not considered detained under § 1225, but rather under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present

without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

30. The statutory context and structure also make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. In 2025, Congress added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted. *See* The Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025) (8 U.S.C. § 1226(c)(1)(E)).

31. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A), Congress made clear that such individuals are otherwise covered by § 1226(a). Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.

32. The Supreme Court has explained that § 1225(b) is concerned "primarily [with those] seeking entry," and is generally imposed "at the Nation's borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 297, 2987 (2018). In contrast, Section 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Id.* at 289 (emphases added).

33. Furthermore, § 1225(b)(2) specifically applies only to those "seeking

admission," and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are "coming or attempting to come into the United States." The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer "seeking admission" or "coming [...] into the United States." *See Martinez v. Hyde*, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *see also Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing "is arriving" in INA § 235(b)(1)(A)(i) and observing that "[t]he use of the present progressive, like use of the present participle, denotes an ongoing process").

34. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who was arrested by ICE while residing in the United States.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

35. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999).

36. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the BIA recent decision holding that anyone who has

entered the U.S. without inspection is now considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA's decision in *Yajure Hurtado* renders exhaustion futile). Here, the Petitioner was scheduled for a custody redetermination hearing with an Immigration judge, however the judge denied the bond for lack of jurisdiction to adjudication. *See* Exhibit D.

37. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).

FIRST CAUSE OF ACTION

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Release on Bond

38. Petitioner restates and realleges all paragraphs as if fully set forth here.

(1) Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

(2) Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

(3) Petitioner has not been, and will not be, provided with a bond hearing as required by law.

39. Petitioner's continuing detention is therefore unlawful.

SECOND CAUSE OF ACTION

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19

Unlawful Denial of Release on Bond

40. Petitioner restates and realleges paragraphs 1 to 37 as if fully set forth here.

41. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226

and its implementing regulations.

42. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

THIRD CAUSE OF ACTION

Violation of Fifth Amendment Right to Due Process

43. Petitioner restates and realleges paragraphs 1 to 37 as if fully set forth here.

44. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.

45. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinermon v. Burch*, 494 U.S. 113, 127 (1990).

46. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner's release.

47. Petitioner's private interest in freedom from detention is profound. The interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from

government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").

48. The risk of erroneous deprivation is exceptionally high. Petitioner has never been arrested and has deep ties to the community.

49. The government's interest in detaining Petitioner without due process is minimal. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.

50. Furthermore, the "fiscal and administrative burdens" of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.

51. Considering these factors, Petitioner respectfully requests that this Court order his immediate release from custody or provide him with a bond hearing.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Declare that Respondents have violated Petitioner's rights;
3. Order that Petitioner not be transferred outside of this District;
4. Issue an Order to Show Cause ordering Respondents to show cause why his Petition should not be granted within three days;
5. Declare that Petitioner's detention is unlawful;
6. Issue a Writ of Habeas Corpus ordering Respondents to release him from custody immediately on the same conditions he was subject to immediately prior to his recent detention or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or the Due Process Clause within seven days;
7. Enjoin and restrain from re-detaining petitioner for any purpose, absent exigent circumstances, without providing petitioner notice and a pre-detention hearing before an immigration judge where Respondents will have the burden to demonstrate a change in circumstances justifying petitioner's re-detention.
8. Award him his attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
9. Grant him any further relief this Court deems just and proper;

RESPECTFULLY SUBMITTED this Nineth Day of Month February, 2026

/s/Jagbir Terkiana

Jagbir Singh Terkiana (CA SBN #339166)
Terkiana PC
PO Box 70280
Sunnyvale, CA 94086
(408) 689-6117
Email: jay@immigration.global

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

I represent the Petitioner, Sparsh 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 and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this Nineth day of February, 2026.

/s/_Jagbir Singh Terkiana_