

Carmen Di Amore-Siah, HI 5035 (*Lead Counsel*)  
Norman K.M. Wong, HI 10627 (*Co-Counsel*)  
Law Office of Carmen Di Amore-Siah  
820 S. Beretania St., Ste 200  
Honolulu, HI 96813  
Phone: 808-531-2277  
Email: [carmen@immigrateus.com](mailto:carmen@immigrateus.com)  
[norman@immigrateus.com](mailto:norman@immigrateus.com)

Attorneys for Petitioner,

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF HAWAI'I

RAHUL, RAHUL

*Petitioner,*

v.

SHIKHA DOSANJ, *in her official capacity as  
Warden of the Federal Detention Center,  
Honolulu, Hawai'i*; POLLY KAISER, *in his  
official capacity as Acting Field Office  
Director of the Immigration and Customs  
Enforcement, San Francisco Field Office*;  
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,*

*Respondents.*

Case No. CV 26-00067 SASP-KJM

**PETITIONER'S RESPONSE TO  
THE COURT'S FOUR  
QUESTIONS (DKT. NO. 9)**

**BRIEF SUMMARY OF FACTS**

Petitioner Rahul Rahul (hereinafter “Mr. Rahul” or “Petitioner”), a citizen of India, has been in U.S. Immigration and Customs Enforcement (“ICE”) custody since November 7, 2024, and is currently detained at the Federal Detention Center (“FDC”) in Honolulu. He entered the United States without inspection on August 29, 2024, and was initially detained, later released, and re-detained by ICE. Within one year of being in the U.S., on January 31, 2025, Mr. Rahul filed Form I-589, Application for Asylum, Withholding of Removal, and protection under the Convention Against Torture based on [REDACTED]

[REDACTED]

On October 27, 2025, the Immigration Judge (“IJ”) Clarence Wagner Jr. denied his asylum application under the Circumvention of Lawful Pathways (“CLP”) rule but granted withholding of removal, creating a final order of removal from which he cannot be deported to India. *See* Dkt. No. 1, Petitioner’s Exhibit 4: *Order of the IJ*. Since then, he has remained in ICE custody under INA § 241(a), exceeding both the 90-day removal period and the six-month presumptive limit recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

Mr. Rahul’s bond request was denied on February 3, 2026, and a bond appeal was filed with the Board of Immigration Appeals (“BIA”) on February 10, 2026. *See*

Dkt. No. 1, Petitioner's Exhibits 2-3: *BIA Filing Receipt* and *Order of the IJ*. He has now been detained for 15 months without criminal charges or a sentence.

**RESPONSE TO COURT'S FOUR QUESTIONS (DKT. 9)**

As ordered by the Court, Petitioner respectfully submits this supplemental brief addressing the Court's four questions:

**(1) Has the remedy the petition seeks been granted in the form of a custody redetermination on 2/3/2026?**

No. During the custody redetermination on 2/3/2026, IJ Clarence Wagner Jr. denied Petitioner's bond request stating, "The Respondent is ineligible for bond."

*Id.* The remedy Mr. Rahul seeks is release from custody.

**(2) As Petitioner has a pending appeal before the Board of Immigration Appeals ("BIA"), would an automatic stay apply?**

No. Specifically for bond appeals, appellants do not receive automatic stay. Automatic stay applies to bond appeals *only* when it has been invoked by the U.S. Department of Homeland Security ("DHS"). *See* 8 C.F.R. §§ 1003.6(a), 1003.6(c)(3).

**(3) If the answer to #2 is no, under what legal authority can this Court consider the petition while Petitioner's appeal before the BIA is pending?**

Under *Zadvydas v. Davis*, 533 U.S. 678 (2001), this Court has jurisdiction to review Petitioner's continued detention while the bond appeal remains pending

before the BIA. The Supreme Court confirmed that federal courts retain authority to review the legality and constitutional limits of immigration detention.

Pursuant to 28 U.S.C. § 2241, federal courts may grant habeas relief to noncitizens held in custody in violation of the Constitution or federal law, including challenges to continued bond detention. Judicial review is proper where administrative remedies have been exhausted or where further pursuit of those remedies would be futile.

Although Petitioner's bond appeal is pending before the BIA, exhaustion is excused because further administrative review would be futile. In *Matter of Yajure Hurtado*, 28 I&N Dec. 555 (BIA 2025), the BIA issued binding precedent barring bond eligibility for individuals who entered without inspection, effectively foreclosing the relief Petitioner seeks and rendering the pending appeal incapable of providing meaningful relief.

Moreover, Petitioner respectfully submits that this Court has jurisdiction to grant a stay of removal because the request is connected to a habeas petition under 28 U.S.C. § 2241 challenging unlawful detention. The jurisdictional bars in 8 U.S.C. §§ 1252(a)(5), 1252(b)(9), and 1252(g) do not prevent review of constitutional claims, as § 1252(g) applies only to commencing proceedings, adjudicating cases, or executing removal orders. The Supreme Court in *Zadvydas v. Davis* confirms that federal courts retain jurisdiction to review detention, even post-removal, and

Petitioner's stay is intended to prevent irreparable harm while this Court considers the lawfulness of continued custody.

**(4) What is the status of the withholding of removal granted to Petitioner on 10/27/2025?**

ICE is trying to find a third country, other than India, to which Petitioner can be deported. Petitioner has been granted withholding of removal, which bars deportation to India and allows him to live and work in the U.S. indefinitely while conditions in his home country remain dangerous. The government may only deport him to a third country that agrees to accept him and where he would be safe.

Respectfully Submitted,



Carmen Di Amore-Siah  
*Lead Counsel for Petitioner*

CERTIFICATE OF SERVICE

I, Carmen Di Amore-Siah, hereby certify that on this date, a true and correct copy of the foregoing was served on the following at their last known address by electronic service via CM/ECF:

Served Electronically by CM/ECF:  
KENNETH M. SORENSON, U.S. Attorney  
District of Hawaii

EDRIC M. CHING #6697  
Assistant U.S. Attorney  
Room 6-100, PJKK Federal Building  
300 Ala Moana Blvd.  
Honolulu, HI 96850  
Phone: 808-541-2850  
Facsimile: 808-541-2958  
Email: [edric.ching@usdoj.gov](mailto:edric.ching@usdoj.gov)

Attorneys for Respondents

DATED: February 20, 2026 at Honolulu, HI

  
\_\_\_\_\_  
Carmen Di Amore-Siah  
*Lead Counsel for Petitioner*