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10
11 **IN THE UNITED STATES DISTRICT COURT**
12 **DISTRICT OF COLORADO**

13 HARKIRAT SINGH

14 Petitioner,

15 v.

Civil Action No.

16 JUAN BALTASAR, Warden of the Denver
17 Contract Detention Facility; TODD LYONS,
18 Acting Director of Immigration and Customs
19 Enforcement; KRISTI NOEM, Secretary of the
20 U.S. Department of Homeland Security; PAMELA
21 BONDI, Attorney General of the United States

**VERIFIED PETITION FOR
HABEAS CORPUS**

22 Respondents.

23
24 **INTRODUCTION**

25 1. Petitioner Singh is unlawfully detained by Respondents and has been denied access to a
26 bond hearing. Petitioner is a native and citizen of India who entered the United States without inspection
27 on May 25, 2024. Following a brief initial detention pursuant to a Form I-200 Warrant for Arrest of
28 Alien, Petitioner was released on his own recognizance and placed on Alternatives to Detention
("ATD") monitoring with regular Immigration and Customs Enforcement ("ICE") check-ins.

2. 2. Petitioner fully complied with all conditions of release from the date of his release
through his re-detention. He maintained perfect ATD compliance, attended every scheduled ICE check-

1 in, and was never accused of violating any condition of supervision. DHS never alleged that Petitioner
2 posed a danger to the community or a flight risk.

3 3. On May 25, 2024, DHS served Petitioner with a Notice to Appear (“NTA”),
4 charging him solely under INA § 212(a)(6)(A)(i) as a noncitizen present in the United States without
5 being admitted or paroled. Petitioner has no criminal history.

6
7 4. Petitioner has been pursuing an application for asylum before the Immigration
8 Court, having fled India due to a well-founded fear for his life. His removal proceedings remain
9 pending, and no final order of removal has been entered.

10
11 5. On January 29, 2026, Petitioner was a passenger in a vehicle that was stopped by
12 local law enforcement for a traffic matter. During the stop, officers inquired about Petitioner’s
13 immigration status. After Petitioner informed officers that he had a pending case before the
14 Immigration Court, he was detained without a judicial warrant or individualized custody determination
15 and transferred to ICE custody.

16
17 6. Respondents now claim that Petitioner is subject to mandatory detention under 8
18 U.S.C. § 1225(b), relying on DHS’s July 8, 2025 Interim Guidance and the Board of Immigration
19 Appeals’ decision in Matter of Yajure Hurtado. That position conflicts with the statutory text and
20 structure of the Immigration and Nationality Act and long-standing agency practice.

21
22 7. Petitioner is a pre-final-order noncitizen whose detention is governed by 8 U.S.C.
23 § 1226(a). Noncitizens detained under § 1226(a) are entitled to a custody redetermination hearing
24 before an Immigration Judge. DHS’s attempt to reclassify Petitioner as subject to mandatory detention
25 under § 1225(b)—after releasing him into the interior and supervising him for over nineteen months—
26 unlawfully strips him of that statutory right.

27
28 8. Because Petitioner is detained under § 1226(a), his continued detention without

1 access to a bond hearing violates the INA and the Due Process Clause. Petitioner therefore seeks habeas
2 relief ordering Respondents to provide a prompt bond hearing before an Immigration Judge or, in the
3 alternative, to release him from custody.

4 **JURISDICTION**

5 9. This action arises under the Constitution of the United States and the INA, 8 U.S.C.
6 § 1101 *et seq.*

7
8 10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28
9 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension
10 Clause).

11 11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*,
12 the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

13 **VENUE**

14
15 12. Venue is proper because Petitioner is detained in Denver Contract Detention Facility,
16 which is within the jurisdiction of this District. Venue is also proper in this District because
17 Respondents are officers, employees, or agencies of the United States. *See* 28 U.S.C. § 1391(e).

18 **PARTIES**

19
20 13. Respondent Juan Baltasar is sued in his official capacity as Warden of the Denver
21 Contract Detention Facility. Respondent Baltasar is the physical custodian of Petitioner.

22 14. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S.
23 Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has
24 authority to release him.

25
26 15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S.
27 Department of Homeland Security. In this capacity, Respondent Noem is responsible for the
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1 implementation and enforcement of the INA, and oversees ICE, the component agency responsible for
2 Petitioner’s detention and custody. Respondent Noem is a legal custodian of Petitioner.

3 16. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the
4 United States and the senior official of the U.S. Department of Justice. In that capacity, she has the
5 authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review
6 (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal
7 custodian of Petitioner.
8

9 **STATEMENT OF FACTS**

10 17. Petitioner Singh is a native and citizen of India who entered the United States without
11 inspection on May 25, 2024. DHS briefly detained Petitioner pursuant to a Form I-200 Warrant for
12 Arrest of Alien and subsequently released him on his own recognizance.
13

14 18. As a condition of release, DHS required Petitioner to enroll in Alternatives to Detention
15 (“ATD”) monitoring and to report regularly to ICE. Petitioner fully complied with all ATD and
16 reporting requirements from the date of his release through his re-detention. He never missed a check-
17 in, never violated ATD conditions, never absconded, and was never accused of noncompliance, danger,
18 or flight risk.
19

20 19. On May 25, 2024, DHS served Petitioner with a Notice to Appear, charging him with
21 removability solely under INA § 212(a)(6)(A)(i).
22

23 20. Since the commencement of removal proceedings, Petitioner has actively pursued an
24 application for asylum before the Immigration Court based on his fear of persecution in India. His
25 proceedings remain pending.

26 21. From May 25, 2024 through January 29, 2026, Petitioner remained continuously
27 supervised in the community under DHS’s authority. DHS repeatedly reaffirmed Petitioner’s suitability
28

1 for release by allowing him to remain on ROR with ATD supervision for approximately nineteen
2 months.

3 22. 22. Petitioner has no criminal history.

4 23. 23. On January 29, 2026, Petitioner was a passenger in a vehicle that was stopped by
5 local law enforcement for a traffic matter. During the stop, officers questioned Petitioner regarding his
6 immigration status. After he explained that he had a pending case before the Immigration Court, he
7 was detained and subsequently transferred to ICE custody. No warrant was presented to Petitioner at
8 the time of the stop, and no individualized custody determination was made prior to his transfer.
9

10 24. 24. Following his re-detention, DHS asserted for the first time that Petitioner was
11 subject to mandatory detention under 8 U.S.C. § 1225(b), relying on DHS's July 8, 2025 Interim
12 Guidance and the Board's decision in Matter of Yajure Hurtado. DHS has refused to provide Petitioner
13 with a bond hearing, resulting in his continued detention without access to custody redetermination
14 proceedings.
15

16 **STATUTORY FRAMEWORK**

17 25. The INA prescribes three basic forms of detention for noncitizens in removal
18 proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited
19 removal proceedings before an IJ. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a. Individuals in section
20 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
21 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain
22 crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
23

24 26. Second, the INA provides for mandatory detention of noncitizens subject to expedited
25 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under
26 8 U.S.C. § 1225(b)(2).
27
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1 27. Finally, the INA also provides for detention of noncitizens who are subject to final
2 orders of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
3 The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal
4 Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div.
5 C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(c) was most
6 recently amended earlier this year by the Laken Riley Act (“LRA”), Pub. L. No. 119-1, 139 Stat. 3
7 (2025).
8

9 28. Following enactment of the IIRIRA, the EOIR drafted new regulations explaining that,
10 in general, people who entered the country without inspection were not considered detained under
11 section 1225 and that they were instead detained under section 1226(a). *See* Inspection and Expedited
12 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
13 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens
14 who entered without inspection—unless they were subject to some other detention authority—received
15 bond hearings. This practice was also consistent with the practice prior to the enactment of the IIRIRA,
16 in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ
17 or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229
18 (1996) (noting that section 1226(a) simply “restates” the detention authority previously found at section
19 1252(a)).
20
21

22 29. On July 8, 2025, DHS issued a memo to all employees of ICE stating that “[t]his
23 message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited
24 its legal position on detention and release authorities. DHS has determined that section 235 of the
25 Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226],
26 is the applicable immigration detention authority for all applicants for admission. The following interim
27
28

1 guidance is intended to ensure immediate and consistent application of the Department’s legal
2 interpretation while additional operational guidance is developed.” The memo further stated DHS’ new
3 position with regard to custody determinations as follows:

4 An “applicant for admission” is an alien present in the United States who has not been admitted
5 or who arrives in the United States, whether or not at a designated port of arrival. INA §
6 235(a)(1) [8 U.S.C. § 1225(a)(1)]. **Effective immediately, it is the position of DHS that such**
7 **aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be**
8 **released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible
9 for a custody redetermination hearing (“bond hearing”) before an immigration judge and may
10 not be released for the duration of their removal proceedings absent a parole by DHS. For
11 custody purposes, these aliens are now treated in the same manner that “arriving aliens” have
12 historically been treated. **The only aliens eligible for a custody determination and release**
13 **on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during**
14 **removal proceedings are aliens admitted to the United States and chargeable with**
15 **deportability under INA § 237, with the exception of those subject to mandatory detention**
16 **under INA § 236(c) [8 U.S.C. § 1226(c)].**

17 Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants
18 for admission because Form I-286 applies by its terms only to custody determinations under
19 INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception
20 for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will
21 individually advise, if Enforcement and Removal Operations (ERO) previously conducted a
22 custody determination for an applicant for admission still detained in ICE custody, ERO will
23 affirmatively cancel the Form I-286.

24 *See* [https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
25 [applications-for-admission](https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission) (last accessed October 18, 2025) (emphasis original).

26 30. As a result, DHS now considers all noncitizens who have entered the United States
27 without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents,
28 to be subject to mandatory detention under section 1225(b) and ineligible for release on bond.
Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on
recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal
proceedings are aliens admitted to the United States and chargeable with deportability under INA §
237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. §
1226(c)].” *Id.*

1 31. On September 5, 2025, the BIA issued a decision in *Matter of Yajure Hurtado*, 29 I&N
2 Dec. 216 (BIA 2025) holding that, based on the plain language of section 1225(b)(2)(A), IJs lack
3 authority to hear bond requests or to grant bond to aliens who are present in the United States without
4 admission.

5 32. Subsequent Colorado District Court and other federal court authority has rejected DHS's
6 interpretation and confirmed that individuals in Petitioner's position remain eligible for bond under §
7 1226(a). In *Bautista–Maldonado v. DHS*, the district court held that DHS may not reclassify noncitizens
8 who are already placed in removal proceedings and detained pre-final order as subject to mandatory
9 detention under § 1225(b). The court concluded that such detention contravenes the statutory scheme
10 and unlawfully deprives noncitizens of their right to a bond hearing. Under *Bautista–Maldonado*,
11 noncitizens like Petitioner—who are in removal proceedings and lack a final order of removal—are
12 properly detained, if at all, pursuant to § 1226(a) and must be afforded an individualized bond hearing
13 before an IJ. Accordingly, Petitioner's continued detention without access to bond violates the INA and
14 the Due Process Clause, and Petitioner is statutorily and constitutionally eligible for release on bond
15 pending the resolution of his removal proceedings.
16
17

18 33. Petitioner further qualifies as a member of the certified class (or, at minimum, the
19 proposed and protected class) in *Bautista–Maldonado v. DHS*. Petitioner is a noncitizen who entered
20 the United States without inspection, is currently in pre-final order removal proceedings, and is being
21 detained by DHS pursuant to its post-July 8, 2025 policy asserting mandatory detention under 8 U.S.C.
22 § 1225(b). DHS has relied on that policy to deny Petitioner access to a bond hearing. These facts place
23 Petitioner squarely within the class of individuals for whom the *Bautista–Maldonado* court held that
24 detention must proceed, if at all, under 8 U.S.C. § 1226(a) with the attendant right to an individualized
25 bond hearing before an Immigration Judge. As a class member, Petitioner is entitled to the relief ordered
26
27
28

1 in *Bautista–Maldonado*, including restoration of bond eligibility and protection from unlawful
2 mandatory detention.

3 **CLAIMS FOR RELIEF**

4 **COUNT ONE**

5 **Violation of Fifth Amendment Right to Substantive Due Process**

6
7 34. The allegations in the above paragraphs are realleged and incorporated herein.

8 35. Petitioner is challenging DHS' unlawful custody determination that Petitioner is subject
9 to detention under 8 U.S.C. § 1225(b) and is ineligible for bond and his continued detention under the
10 automatic stay provision at 8 C.F.R. § 1003.19(i)(2), which violates Petitioner's right to substantive
11 due process of law afforded him through the Fifth Amendment to the United States Constitution.

12
13 36. The Fifth Amendment provides in pertinent part: "No person shall be . . . deprived of
14 life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. "Freedom from
15 imprisonment—from government custody, detention, or other forms of physical restraint—lies at the
16 heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

17
18 37. By detaining Petitioner indefinitely without the possibility of release on bond and
19 without an individualized custody determination before a neutral adjudicator, Respondents have
20 imposed arbitrary and excessive detention in violation of substantive due process.

21 38. As a remedy, this Court should declare that Petitioner's detention is governed by 8
22 U.S.C. § 1226(a), enjoin Respondents from applying § 1225(b) to Petitioner, and order his immediate
23 release or, at minimum, direct that he be provided a prompt and constitutionally adequate bond hearing
24 before an Immigration Judge.
25

26 **COUNT TWO**

27 **Violation of Petitioner's Procedural Due Process Rights**
28

1 39. The allegations in the above paragraphs are realleged and incorporated herein.

2 40. In *Mathews v. Eldridge*, the U.S. Supreme Court set forth the factors to consider in
3 determining if government action deprives an individual's Fifth Amendment right to procedural due
4 process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976) The
5 *Mathews* factors are as follows: First, the private interest that will be affected by the official action;
6 [S]econd, the risk of an erroneous deprivation of such interest through the procedures used, and the
7 probable value, if any, of additional or substitute procedural safeguards; [Third], the Government's
8 interest, including the function involved and the fiscal and administrative burdens that the additional
9 or substitute procedural requirement would entail. *Id.* at 335.
10

11 41. Petitioner's perfect ATD compliance heightens the constitutional violation. DHS
12 imposed monitoring, reporting, and supervision conditions, all of which Petitioner satisfied for nearly
13 three years. This compliance created settled reliance interests protected by the Due Process Clause. The
14 risk of erroneous deprivation is extreme where liberty is revoked despite complete compliance with
15 ATD and without notice or process. The probable value of additional safeguards—at minimum an
16 individualized bond hearing—is substantial, while the Government's interest is minimal because DHS
17 already determined Petitioner could safely remain at liberty.
18

19 42. As to the private interest factor, it is the "most elemental of liberty interests." *Hamdi v.*
20 *Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner has perhaps the most acute private interest known to
21 personkind short of life itself: bodily freedom.
22

23 43. With respect to the second factor, erroneous deprivation of Petitioner's liberty is at risk.
24 Petitioner is not subject to detention under 8 U.S.C. § 1225(b) as DHS claims. As to the third factor,
25 there is no significant governmental interest in continuing to hold Petitioner in custody, particularly
26 because DHS itself repeatedly determined—through continued release on ROR and ATD
27
28

1 supervision—that Petitioner posed no danger to the community and no risk of flight

2 **COUNT THREE**

3 **Violation of the Immigration and Nationality Act**

4 44. The allegations in the above paragraphs are realleged and incorporated herein.

5 45. Petitioner’s detention under 8 U.S.C. § 1225(b) is unlawful because, as a matter of
6 statutory interpretation, his custody is governed by 8 U.S.C. § 1226(a). Section 1226(a) is the default
7 detention authority for noncitizens present in the United States and placed in removal proceedings
8 under § 1229a.
9

10 46. DHS’s application of § 1225(b) to Petitioner—who was released into the interior,
11 remained compliant with supervision, and is in pre-final order proceedings—contravenes the structure
12 and text of the INA. As recognized by the District of Colorado in *Bautista–Maldonado v. DHS*, DHS
13 may not reclassify such individuals as subject to mandatory detention under § 1225(b) in order to
14 eliminate bond eligibility.
15

16 47. By applying the wrong statutory detention provision and denying Petitioner access to a
17 bond hearing authorized under § 1226(a), Respondents have acted contrary to law and in excess of their
18 statutory authority.
19

20 48. Petitioner is therefore entitled to habeas relief declaring that his detention is governed
21 by § 1226(a) and ordering Respondents to provide a bond hearing before an Immigration Judge or
22 release him from custody.
23

24 **PRAYER FOR RELIEF**

25 Wherefore, Petitioner requests this Court to grant the following:

- 26 1. Assume jurisdiction over this matter;
27 2. Enjoin Respondents from transferring Petitioner during the pendency of the instant action;
28

3. Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1226(a); and/or the Fifth Amendment to the U.S. Constitution;
4. Order Petitioner released from detention;
5. Grant Equal Access to Justice Act ("EAJA") fees and costs; and
6. Grant any other further relief this Court deems just and proper.

Respectfully,

/s/Gurpreet Kaur

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

I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained at the Denver Contract Detention Facility and immediate relief is sought, counsel verifies this petition on his behalf pursuant to 28 U.S.C. § 2242. 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 16th day of February, 2026.

/s/Gurpreet Kaur

Gurpreet Kaur, Esq.