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**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO**

HARKIRAT SINGH

Petitioner,

v.

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

Respondents.

Civil Action No.

**MOTION FOR TEMPORARY
RESTRAINING ORDER**

**MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

1 **I. INTRODUCTION**

2 Petitioner Singh respectfully moves for an emergency Temporary Restraining Order (“TRO”) to
3 halt ongoing and irreparable constitutional harm caused by Respondents’ continued unlawful detention of
4 Petitioner without access to bond.

5 Petitioner is a native and citizen of India who entered the United States without inspection on May
6 25, 2024. Shortly after entry, the Department of Homeland Security (“DHS”) briefly detained Petitioner
7 pursuant to a Form I-200 Warrant for Arrest of Alien and then released him on his own recognizance,
8 subject to Alternatives to Detention (“ATD”) monitoring and regularly scheduled check-ins with
9 Immigration and Customs Enforcement (“ICE”).
10

11 Petitioner fully complied with every condition imposed by DHS. He never missed an ICE check-
12 in, never violated ATD conditions, never absconded, and was never accused of noncompliance, danger,
13 or flight risk. DHS repeatedly reaffirmed—through continued release and supervision—that Petitioner
14 could safely remain at liberty while his removal proceedings were pending.
15

16 Petitioner has been actively pursuing an application for asylum before the Immigration Court,
17 having fled India due to fear for his life. His removal proceedings remain pending and no final order has
18 been entered.
19

20 Despite Petitioner’s perfect compliance, he was re-detained on January 29, 2026, after he was a
21 passenger in a vehicle stopped by local law enforcement for a traffic matter. During the stop, officers
22 questioned Petitioner about his immigration status. After he explained that he had a pending case before
23 the Immigration Court, he was detained without presentation of a judicial warrant and without any
24 individualized custody determination. He was subsequently transferred to ICE custody.
25

26 Following his re-detention, Petitioner sought release through the longstanding Immigration Court
27 custody framework. DHS and the Executive Office for Immigration Review (“EOIR”), however, have
28

1 taken the categorical position that—under DHS’s July 8, 2025 Interim Guidance and the Board of
2 Immigration Appeals’ decision in Matter of Yajure Hurtado—no Immigration Judge has authority to
3 conduct a bond hearing for Petitioner because DHS now classifies him as subject to mandatory detention
4 under 8 U.S.C. § 1225(b).

5 Petitioner now challenges an ongoing and continuing constitutional and statutory violation: his
6 detention without bond under an unlawful reinterpretation of the Immigration and Nationality Act. Absent
7 immediate injunctive relief, Petitioner will continue to suffer irreparable loss of physical liberty.
8 Moreover, ICE routinely transfers detainees without notice. Petitioner faces a substantial risk of transfer
9 outside the District of Colorado, which would threaten this Court’s jurisdiction and undermine meaningful
10 judicial review.
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13 Emergency relief is therefore necessary to preserve the status quo, prevent irreparable harm, and
14 ensure that Petitioner receives the bond hearing to which he is statutorily and constitutionally entitled.

15 II. STATEMENT OF FACTS

- 16 1. Petitioner Singh is a native and citizen of India who entered the United States without inspection
17 on May 25, 2024.
18
19 2. Shortly after entry, DHS briefly detained Petitioner pursuant to a Form I-200 Warrant for Arrest
20 of Alien and subsequently released him on his own recognizance.
21
22 3. As a condition of release, DHS placed Petitioner on Alternatives to Detention (“ATD”) monitoring
23 and required him to report regularly to ICE and comply with supervision requirements.
24
25 4. On May 25, 2024, DHS served Petitioner with a Notice to Appear, charging him solely under INA
26 § 212(a)(6)(A)(i).
27
28 5. Petitioner has no criminal history.

- 1 6. From the date of his release through January 29, 2026, Petitioner fully complied with all ATD and
2 ICE supervision requirements. He never missed a scheduled check-in, never violated ATD
3 conditions, never absconded, and was never alleged to be a danger to the community or a flight
4 risk.
- 5 7. During this period, DHS repeatedly reaffirmed Petitioner's suitability for release by allowing him
6 to remain at liberty under continuous supervision while he pursued his asylum claim before the
7 Immigration Court.
- 8 8. On January 29, 2026, Petitioner was a passenger in a vehicle that was stopped by local law
9 enforcement for a traffic matter. During the stop, officers inquired about his immigration status.
10 After Petitioner informed officers that he had a pending case before the Immigration Court, he was
11 detained and subsequently transferred to ICE custody. No judicial warrant was presented to
12 Petitioner at the time of the stop, and no individualized custody determination was made prior to
13 his transfer.
- 14 9. Following his re-detention, Petitioner sought release through Immigration Court custody
15 procedures. DHS and EOIR, however, have taken the position that—pursuant to DHS's July 8,
16 2025 Interim Guidance and Matter of Yajure Hurtado—Immigration Judges categorically lack
17 authority to conduct bond hearings for individuals whom DHS classifies as applicants for
18 admission under 8 U.S.C. § 1225(b).
- 19 10. As a result, Petitioner has been denied access to any bond hearing and remains detained without
20 an individualized assessment of danger or flight risk.

21 **III. LEGAL STANDARD**

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1 A temporary restraining order is an extraordinary remedy governed by Federal Rule of Civil
2 Procedure 65. In the Tenth Circuit, the standards for issuing a temporary restraining order and a
3 preliminary injunction are the same.

4 To obtain such relief, the movant must establish: a substantial likelihood of success on the merits;
5 a likelihood of irreparable harm in the absence of preliminary relief; the threatened injury outweighs the
6 harm the proposed injunction may cause the opposing party; and the injunction would not be averse to the
7 public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Awad v. Ziriya*,
8 670 F.3d 1111, 1125 (10th Cir. 2012).

9
10 A showing of irreparable harm is the single most important prerequisite for injunctive relief. *Diné*
11 *Citizens Against Ruining Our Environment v. Jewell*, 839 F.3d 1276, 1281 (10th Cir. 2016).

12
13 In the Tenth Circuit, certain injunctions are disfavored, including those that are mandatory or that
14 alter the status quo. Where a movant seeks such relief, the movant must make a heightened showing that
15 the four factors weigh heavily and compellingly in his favor. *O Centro Espirita Beneficente União do*
16 *Vegetal v. Ashcroft*, 389 F.3d 973, 975–76 (10th Cir. 2004) (en banc).

17
18 Petitioner’s request for immediate release constitutes mandatory relief because it requires
19 affirmative action by Respondents. Accordingly, Petitioner satisfies the heightened standard applicable to
20 disfavored injunctions.

21
22 Alternatively, Petitioner seeks an order requiring Respondents to provide an individualized bond
23 hearing before an Immigration Judge within seven days, with the burden on the government to justify
24 continued detention. Such relief restores the statutory process required under 8 U.S.C. § 1226(a) and
25 preserves the lawful status quo pending final adjudication of this case.

26
27 When the government is the opposing party, the balance-of-equities and public-interest factors
28 merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

1 **IV. ARGUMENT**

2 **A. Petitioner Is Likely to Succeed on the Merits**

3 **1. Petitioner Is Detained Under 8 U.S.C. § 1226(a), Not 8 U.S.C. § 1225(b)**

4 Petitioner is in pre-final order removal proceedings and is therefore subject to detention, if at all,
5 under 8 U.S.C. § 1226(a)—not 8 U.S.C. § 1225(b). Petitioner is a native and citizen of India who entered
6 the United States without inspection on May 25, 2024. Shortly thereafter, DHS detained him pursuant to
7 a Form I-200 and then released him on his own recognizance subject to Alternatives to Detention (“ATD”)
8 supervision. For approximately nineteen months, DHS exercised discretionary release authority and
9 repeatedly reaffirmed—through continued supervision—that Petitioner could safely remain at liberty
10 while his asylum-based removal proceedings were pending.
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12
13 Petitioner complied perfectly with every supervision requirement. He attended all ICE check-ins,
14 committed no violations, has no criminal history, and was never accused of posing a danger or flight risk.

15 On January 29, 2026, Petitioner was re-detained after he was a passenger in a vehicle stopped for
16 a traffic matter. No violation of immigration supervision was alleged. No individualized custody
17 determination was conducted. DHS instead invoked its July 8, 2025 Interim Guidance and categorically
18 classified Petitioner as subject to mandatory detention under § 1225(b), thereby denying him access to a
19 bond hearing.
20

21 That position is contrary to the statutory framework and controlling authority in this District. For
22 more than a year and a half, DHS exercised its discretionary authority to release Petitioner, repeatedly
23 reaffirming—through continued supervision—that Petitioner could safely remain at liberty while his
24 removal proceedings were pending. Petitioner complied with every condition of release, appeared at every
25 ICE check-in, and was never accused of posing a danger to the community or a flight risk. Petitioner has
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1 no criminal history, has continuously remained in the interior of the United States, and has never been
2 treated as an “arriving alien.”

3 For decades, DHS and EOIR consistently treated noncitizens in Petitioner’s posture—individuals
4 who entered without inspection, were placed in standard removal proceedings, and were released into the
5 interior—as detained, if at all, under § 1226(a), which provides for discretionary detention and eligibility
6 for a bond hearing before an Immigration Judge.
7

8 DHS’s July 8, 2025 Interim Guidance abruptly reversed that long-settled interpretation, asserting
9 for the first time that noncitizens who entered without inspection are categorically subject to mandatory
10 detention under § 1225(b) and ineligible for bond—even after extended periods of government-authorized
11 release, perfect compliance with supervision, and placement in pre-final order removal proceedings.
12

13 That position is contrary to the statutory text, the structure of §§ 1225 and 1226, and congressional
14 intent, and it raises serious due process concerns. Federal district courts nationwide—including courts
15 within the District of Colorado—have rejected DHS’s attempt to retroactively reclassify long-released
16 noncitizens as subject to mandatory detention under § 1225(b). These courts have held that individuals
17 like Petitioner remain governed by § 1226(a) and are therefore entitled to an individualized bond hearing.
18

19 Because Petitioner is detained under § 1226(a), continued detention without access to bond
20 violates the INA and the Fifth Amendment. Petitioner has therefore demonstrated a strong—and indeed
21 compelling—likelihood of success on the merits
22

23 **B. Petitioner Is Suffering Irreparable Harm**

24 The loss of physical liberty constitutes irreparable harm as a matter of law. Civil immigration
25 detention imposes a severe deprivation of bodily freedom that cannot be remedied through monetary
26 damages.
27
28

1 Petitioner has now been detained since January 29, 2026, without any opportunity for an
2 individualized custody determination. Each day of confinement inflicts renewed constitutional injury.

3 The harm is especially acute here because DHS previously determined for nineteen months that
4 Petitioner could safely remain at liberty. His sudden re-detention—without any alleged violation or
5 changed circumstance—constitutes a categorical deprivation of liberty untethered to any individualized
6 assessment.
7

8 Petitioner’s detention has severed him from his family, impaired his ability to assist in his pending
9 asylum case, and subjected him to confinement despite a spotless compliance record.

10 He also faces a real and imminent risk of transfer outside the District of Colorado, a routine ICE
11 practice. Transfer would disrupt access to counsel and complicate this Court’s jurisdiction, further
12 compounding irreparable harm.
13

14 Under Tenth Circuit precedent, irreparable harm is the single most important prerequisite for
15 injunctive relief. Petitioner’s ongoing unlawful detention satisfies this requirement decisively.

16 **C. The Balance of Equities and Public Interest Favor Relief**
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18 The balance of equities weighs decisively in Petitioner’s favor. For more than nineteen months,
19 DHS itself determined—through continued release under ATD supervision—that Petitioner posed no
20 danger to the community and no risk of flight. Petitioner complied with every supervision requirement
21 and remained fully available to DHS for monitoring and enforcement.
22

23 By contrast, Petitioner’s sudden re-detention on January 29, 2026, without notice, without any
24 alleged violation, and without an individualized custody determination, inflicts severe and immediate
25 harm on Petitioner.

26 Respondents, however, would suffer no cognizable harm from Petitioner’s release or from
27 providing a prompt, individualized bond hearing. Granting relief would merely restore the lawful status
28

1 quo ante—the very conditions under which DHS itself permitted Petitioner to remain at liberty—and
2 ensure compliance with the Constitution and the Immigration and Nationality Act.

3 Because Petitioner has demonstrated a strong likelihood of success on the merits and an ongoing
4 irreparable deprivation of physical liberty, immediate injunctive relief is warranted. Under Federal Rule
5 of Civil Procedure 65(c), the Court may issue injunctive relief without requiring a bond where, as here,
6 the injunction serves to halt unconstitutional government action and Respondents face no risk of monetary
7 loss.
8

9 The public interest is likewise served by ensuring that federal agencies act within constitutional
10 and statutory bounds. An injunction ordering Petitioner’s immediate release, or alternatively restoring his
11 eligibility for bond under 8 U.S.C. § 1226(a), promotes respect for the rule of law and prevents ongoing
12 constitutional violations.
13

14 **D. In the Alternative, the Court Should Order a Bond Hearing Within Seven Days With the**
15 **Burden on the Government**

16 If the Court declines to order immediate release, it should order Respondents to provide an
17 individualized bond hearing before an Immigration Judge within seven days.
18

19 Because detention is governed by § 1226(a), due process requires that the government bear the
20 burden of justifying continued detention by clear and convincing evidence of danger or flight risk.

21 Such relief restores the statutory framework, preserves meaningful judicial review, and ensures
22 that detention is not imposed categorically without individualized assessment.
23

24 **V. REQUESTED RELIEF**

25 Petitioner respectfully requests that the Court:

- 26 1. Issue a Temporary Restraining Order Prohibiting Respondents from transferring Petitioner outside
27 the District of Colorado during the pendency of this action;
28

- 1 2. Order Petitioner's immediate release, or in the alternative,
- 2 3. Order Respondents to provide an individualized bond hearing before an Immigration Judge within
- 3 a fixed time period, with the burden on DHS; and
- 4 4. Set an Order to Show Cause re preliminary injunction.

5 **VI. CONCLUSION**

6 Respondents' continued detention of Petitioner without bond violates the INA, the Fifth
7 Amendment, and binding federal court authority. Immediate injunctive relief is necessary to prevent
8 further irreparable harm and to preserve this Court's jurisdiction.
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10
11 Respectfully,

12 /s/Gurpreet Kaur

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Dated this 16th day of February, 2026.