

HIMANSHU KHATRI (SBN: 348453)  
KHATRI LAW  
420 GARCES DR  
SAN FRANCISCO, CA 94132  
(415) 917-5513

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA

8		)	
9	SHUBHAM SHUBHAM,	)	
10	Petitioner,	)	
11	v.	)	
12		)	<i>Civil Action No.: TBA</i>
13	WARDEN, Moshannon Valley	)	
14	Processing Center;	)	
15	ENFORCEMENT AND REMOVAL	)	
16	OPERATIONS (ERO);	)	
17	U.S. IMMIGRATION AND CUSTOMS	)	
18	ENFORCEMENT (ICE);	)	
19	DEPARTMENT OF HOMELAND	)	
20	SECURITY (DHS),	)	
21	Respondents,	)	
22		)	

MOTION FOR PRELIMINARY INJUNCTION

1 Petitioner **Shubham Shubham**, by and through undersigned  
2 counsel, respectfully moves this Court for a **preliminary**  
3 **injunction** ordering Respondents to either (1) provide  
4 Petitioner with a **constitutionally adequate custody/bond**  
5 **hearing** within a fixed and prompt period of time, or (2)  
6 release him from immigration detention pending resolution  
7 of his habeas petition.

8  
9 This motion is based on the accompanying **Petition for Writ**  
10 **of Habeas Corpus**, the **Declaration of Counsel**, the records  
11 of Petitioner's immigration proceedings, and the following  
12 memorandum of points and authorities.

13  
14 **I. INTRODUCTION**

15  
16 This case presents a straightforward but serious  
17 constitutional problem:

18  
19 **The federal government is detaining a civil immigration**  
20 **detainee indefinitely without any available forum to**  
21 **justify that detention.**

22  
23 Petitioner is currently detained at the **Moshannon Valley**  
24 **Processing Center** while his appeal before the **Board of**  
25 **Immigration Appeals** remains pending. His removal order is

1 therefore **not administratively final**. Yet an Immigration  
2 Judge has expressly stated that the Immigration Court **lacks**  
3 **jurisdiction** to conduct a bond hearing, and ICE has offered  
4 no alternative custody review mechanism.

5  
6 The result is a **jurisdictional vacuum** in which Petitioner  
7 remains confined without the process the Constitution  
8 requires. The Due Process Clause does not permit this  
9 outcome. Preliminary injunctive relief is necessary to  
10 prevent ongoing and irreparable constitutional harm.

11  
12 **II. LEGAL STANDARD**

13  
14 A preliminary injunction is appropriate where the movant  
15 demonstrates:

- 16  
17 1. A likelihood of success on the merits;  
18 2. Irreparable harm absent injunctive relief;  
19 3. That the balance of equities tips in his favor; and  
20 4. That an injunction is in the public interest.

21  
22 *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20  
23 (2008); *Reilly v. City of Harrisburg*, 858 F.3d 173, 176 (3d  
24 Cir. 2017).

1 In cases involving **ongoing constitutional violations**,  
2 courts in the Third Circuit routinely recognize that  
3 preliminary relief is not only appropriate, but necessary.  
4

5 **III. ARGUMENT**

6  
7 **A. Petitioner Is Likely to Succeed on the Merits**

8  
9 **1. Prolonged Civil Detention Without a Custody Hearing**  
10 **Violates Due Process**

11  
12 Civil immigration detention is non-punitive and  
13 constitutionally permissible **only so long as it remains**  
14 **reasonable in duration and justified by individualized**  
15 **findings**. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).  
16

17 The Third Circuit has repeatedly held that when immigration  
18 detention becomes prolonged, **due process requires a**  
19 **meaningful custody hearing** at which the government bears  
20 the burden of proof. *Diop v. ICE/Homeland Sec.*, 656 F.3d  
21 221, 232-33 (3d Cir. 2011); *Chavez-Alvarez v. Warden York*  
22 *Cnty. Prison*, 783 F.3d 469, 474-75 (3d Cir. 2015).  
23

24 Here, Petitioner has been detained for months while  
25 pursuing a lawful appeal of a removal order that is **not**

1 **final.** Yet he has been denied any meaningful custody  
2 review.

3  
4 **2. Petitioner Has Been Placed in a Jurisdictional Void**

5  
6 Unlike the typical detention case, Petitioner does not  
7 merely allege that his bond hearing was inadequate.  
8 He alleges that **no bond forum exists at all.**

9  
10 An Immigration Judge expressly stated that the Immigration  
11 Court **lacked jurisdiction** to provide a bond hearing. ICE  
12 has not identified any alternative mechanism for custody  
13 review.

14  
15 The Constitution does not permit detention to persist  
16 **simply because agencies disclaim responsibility.** Where  
17 administrative remedies are unavailable or structurally  
18 foreclosed, **habeas relief is not only appropriate, it is**  
19 **required.**

20  
21 **3. Petitioner's Detention Is Not Authorized by Statute as**  
22 **Applied**

23  
24 Respondents cannot justify continued detention under **INA §**  
25 **236(a)** while simultaneously denying the custody hearing

1 that statute presupposes. Nor can they rely on post-order  
2 detention authority where the removal order is not  
3 administratively final.

4  
5 As applied to Petitioner, the statutory scheme **fails to**  
6 **provide constitutionally sufficient process**, rendering  
7 continued detention unlawful.

8  
9 **B. Petitioner Is Suffering Irreparable Harm**

10  
11 The loss of physical liberty through unlawful detention  
12 constitutes **irreparable harm per se**. *Elrod v. Burns*, 427  
13 U.S. 347, 373 (1976).

14  
15 Petitioner's detention also causes:

- 16  
17 • Ongoing psychological distress;  
18 • Severe impairment of his ability to assist counsel in  
19 his pending BIA appeal; and  
20 • The risk that prolonged detention will effectively  
21 moot his right to appellate review.

22  
23 No monetary remedy can compensate for these harms. Absent  
24 immediate judicial intervention, they will continue  
25 unabated.

1           **C. The Balance of Equities Favors Petitioner**

2  
3           The equities weigh decisively in Petitioner's favor.

4  
5           Petitioner seeks **process**, not immunity from the law.  
6           Requiring the government to justify detention at a  
7           constitutionally adequate hearing imposes **minimal burden** on  
8           Respondents.

9  
10          By contrast, denying relief permits the continued  
11          confinement of an individual **without lawful justification**.  
12          Equity does not tolerate that result.

13  
14          **D. The Public Interest Supports Injunctive Relief**

15  
16          The public has a profound interest in ensuring that  
17          executive detention complies with constitutional limits.

18  
19          As the Third Circuit has emphasized, "**the public interest**  
20          **favours the protection of constitutional rights.**" *Council of*  
21          *Alternative Political Parties v. Hooks*, 121 F.3d 876, 883-  
22          84 (3d Cir. 1997).

23  
24          Ordering a custody hearing—or release—advances the rule of  
25          law and preserves confidence in the judicial system.

1 **IV. REQUESTED RELIEF**

2  
3 Petitioner respectfully requests that the Court enter a  
4 preliminary injunction:

- 5  
6 1. Ordering Petitioner's **immediate release from ICE custody**  
7 pending resolution of this habeas action;

8  
9 **OR**

- 10  
11 2. In the alternative, ordering Respondents to provide  
12 Petitioner with an **individualized custody/bond hearing**  
13 **within seven (7) days**, at which:

- 14  
15     o The Government bears the burden of proof, and  
16     o Detention must be justified by clear and convincing  
17 evidence,

18  
19 **V. NOTICE**

20  
21 Petitioner does not seek ex parte relief. This Motion is  
22 filed concurrently with the Petition for Writ of Habeas  
23 Corpus, and Respondents will have a full and fair  
24 opportunity to respond.  
25

1       **DATED:** 02/13/2026

2

3       Respectfully submitted,

4

A handwritten signature in black ink, appearing to be 'Himanshu Khatri', written over a horizontal line.

5

6       **HIMANSHU KHATRI**

7       Attorney for Petitioner

8       Shubham Shubham

9       Khatri Law

10       420 Garces Drive

11       San Francisco, CA 94132

12       Tel: 415-917-5513

13       Email: himanshu@khatri-law.com

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