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

SOMVIR SOMVIR

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 AND
ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION**

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

I. INTRODUCTION

Petitioner Somvir respectfully moves this Court for an emergency Temporary Restraining Order (“TRO”) to halt ongoing and irreparable constitutional and statutory harm resulting from Respondents’ continued detention without access to a bond hearing.

Petitioner is a native and citizen of India who entered the United States without inspection on April 15, 2023. Shortly after entry, the Department of Homeland Security (“DHS”) briefly detained Petitioner pursuant to a Form I-200 Warrant for Arrest of Alien and subsequently released him on an Order of Release on Recognizance (“ROR”), subject to supervision through Alternatives to Detention (“ATD”) and regular reporting to Immigration and Customs Enforcement (“ICE”).

On April 17, 2023, DHS served Petitioner with a Notice to Appear charging removability solely under INA § 212(a)(6)(A)(i). Petitioner has no criminal history. His removal proceedings remain pending, and no final order of removal has been entered.

From the date of his release through February 16, 2026, Petitioner fully complied with every condition imposed by DHS. He never missed an ICE check-in, never violated ATD requirements, never absconded, and was never alleged to pose a danger to the community or a flight risk. DHS permitted Petitioner to remain at liberty for nearly three years while his removal proceedings were pending.

On February 16, 2026, while lawfully working as a commercial truck driver transporting goods pursuant to contract, Petitioner experienced mechanical trouble with his trailer and safely pulled onto the shoulder of the highway. A county sheriff approached to inquire about the roadside situation. During that interaction, the sheriff questioned Petitioner regarding his immigration status and contacted ICE.

ICE officers subsequently arrived and detained Petitioner. No criminal charges were filed. No judicial warrant was presented to Petitioner, and no individualized custody determination was conducted prior to his transfer to ICE custody.

1 Following his re-detention, DHS asserted that Petitioner is subject to mandatory detention under
2 8 U.S.C. § 1225(b), relying on DHS's July 8, 2025 Interim Guidance and the Board of Immigration
3 Appeals' September 5, 2025 decision in Matter of Yajure Hurtado. Based on that position, DHS has denied
4 Petitioner access to a bond hearing before an Immigration Judge.

5 Petitioner now challenges his continued detention without access to bond under 8 U.S.C. §
6 1226(a). Absent immediate injunctive relief, Petitioner will continue to suffer irreparable loss of liberty.
7 ICE routinely transfers detainees without notice, creating a substantial risk that Petitioner may be moved
8 outside the District of Colorado, potentially frustrating this Court's jurisdiction and meaningful review.
9

10 Emergency relief is therefore necessary to preserve the status quo, prevent irreparable harm, and
11 ensure Petitioner receives the bond hearing to which he is statutorily and constitutionally entitled.
12

13 **II. STATEMENT OF FACTS**

- 14 1. Petitioner Somvir is a native and citizen of India who entered the United States without inspection
15 on April 15, 2023.
- 16 2. Shortly after entry, DHS briefly detained Petitioner pursuant to a Form I-200 Warrant for Arrest
17 of Alien.
- 18 3. DHS subsequently released Petitioner on an Order of Release on Recognizance and enrolled him
19 in Alternatives to Detention ("ATD") supervision requiring regular reporting to ICE.
20
- 21 4. On April 17, 2023, DHS served Petitioner with a Notice to Appear charging removability solely
22 under INA § 212(a)(6)(A)(i).
23
- 24 5. Petitioner has no criminal history and has never been charged or convicted of any offense.
- 25 6. From April 2023 through February 16, 2026, Petitioner fully complied with all ATD and ICE
26 supervision requirements. He never missed a check-in, never violated any condition of release,
27 and was never alleged to pose a danger to the community or a flight risk.
28

1 7. Petitioner has been pursuing asylum before the Immigration Court. His removal proceedings
2 remain pending, and no final order has been entered.

3 8. On February 16, 2026, while working as a commercial truck driver, Petitioner experienced
4 mechanical trouble with his trailer and safely pulled onto the shoulder of the highway.

5 9. A county sheriff approached Petitioner regarding the roadside situation. During the interaction, the
6 sheriff inquired about Petitioner's immigration status and contacted ICE.
7

8 10. ICE officers arrived and detained Petitioner. No criminal charges were filed, no judicial warrant
9 was presented, and no individualized custody determination was conducted prior to his detention.

10 11. Following his re-detention, DHS asserted that Petitioner is subject to mandatory detention under
11 8 U.S.C. § 1225(b) pursuant to DHS's July 8, 2025 Interim Guidance and Matter of Yajure
12 Hurtado.
13

14 12. As a result, Petitioner has been denied access to a bond hearing before an Immigration Judge and
15 remains detained without an individualized assessment of danger or flight risk.
16

17 **III. LEGAL STANDARD**

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

21 To obtain such relief, the movant must establish: a substantial likelihood of success on the merits;
22 a likelihood of irreparable harm in the absence of preliminary relief; the threatened injury outweighs the
23 harm the proposed injunction may cause the opposing party; and the injunction would not be averse to the
24 public interest. *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008); *Awad v. Zirriax*,
25 670 F.3d 1111, 1125 (10th Cir. 2012).
26
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1 A showing of irreparable harm is the single most important prerequisite for injunctive relief. *Diné*
2 *Citizens Against Ruining Our Environment v. Jewell*, 839 F.3d 1276, 1281 (10th Cir. 2016).

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

7
8 Petitioner’s request for immediate release constitutes mandatory relief because it requires
9 affirmative action by Respondents. Accordingly, Petitioner satisfies the heightened standard applicable to
10 disfavored injunctions.

11
12 Alternatively, Petitioner seeks an order requiring Respondents to provide an individualized bond
13 hearing before an Immigration Judge within seven days, with the burden on the government to justify
14 continued detention. Such relief restores the statutory process required under 8 U.S.C. § 1226(a) and
15 preserves the lawful status quo pending final adjudication of this case.

16
17 When the government is the opposing party, the balance-of-equities and public-interest factors
18 merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

19 **IV. ARGUMENT**

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

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

22 Petitioner is in pre-final order removal proceedings and is therefore subject to detention, if at all,
23 under 8 U.S.C. § 1226(a)—not 8 U.S.C. § 1225(b).

24
25 Petitioner entered the United States without inspection on April 15, 2023. Shortly thereafter, DHS
26 briefly detained him pursuant to a Form I-200 Warrant for Arrest of Alien and subsequently released him
27 on an Order of Release on Recognizance subject to Alternatives to Detention (“ATD”) supervision. On
28

1 April 17, 2023, DHS served him with a Notice to Appear charging removability solely under INA §
2 212(a)(6)(A)(i). His removal proceedings remain pending, and no final order has been entered.

3 For nearly three years, DHS exercised discretionary release authority and repeatedly reaffirmed—
4 through continued ATD supervision—that Petitioner could safely remain at liberty while pursuing asylum.
5 Petitioner complied fully with every supervision requirement. He attended all ICE check-ins, committed
6 no violations, has no criminal history, and was never accused of posing a danger to the community or a
7 flight risk.
8

9 On February 16, 2026, Petitioner was re-detained after a roadside encounter with a county sheriff
10 while he was working as a commercial truck driver and addressing mechanical trouble with his trailer.
11 ICE subsequently took him into custody. No immigration supervision violation was alleged, and no
12 individualized custody determination was conducted before his detention.
13

14 Following re-detention, DHS invoked its July 8, 2025 Interim Guidance and classified Petitioner
15 as subject to mandatory detention under § 1225(b), thereby denying him access to a bond hearing.
16

17 That position is contrary to the statutory framework. Section 1225(b) governs certain applicants
18 for admission at the threshold of entry. Section 1226(a), by contrast, governs detention of noncitizens in
19 ongoing removal proceedings prior to a final order. Petitioner has been continuously present in the interior
20 of the United States, was placed in standard removal proceedings under § 1229a, and was released under
21 DHS's discretionary authority For nearly three years.

22 For decades, DHS and EOIR treated individuals in Petitioner's posture—noncitizens who entered
23 without inspection, were placed in removal proceedings, and were released into the interior—as governed
24 by § 1226(a), which provides eligibility for a bond hearing before an Immigration Judge.
25

26 DHS's July 8, 2025 Interim Guidance reversed that interpretation and asserted that such
27 individuals are categorically subject to mandatory detention under § 1225(b), even after extended periods
28

1 of government-authorized release and perfect compliance. That reclassification conflicts with the statutory
2 text, the structure of §§ 1225 and 1226, and fundamental due process principles.

3 Because Petitioner is detained under § 1226(a), continued detention without access to bond
4 violates the INA and the Fifth Amendment. Petitioner has therefore demonstrated a strong likelihood of
5 success on the merits.

6
7 **B. The Sheriff Stop: Unlawful Seizure**

8 Petitioner's re-detention followed a roadside encounter on February 16, 2026. While working as a
9 commercial truck driver, Petitioner experienced mechanical difficulty with his trailer and safely pulled
10 onto the shoulder of the highway. A county sheriff approached to inquire about the situation.

11 During that interaction, the sheriff questioned Petitioner regarding his immigration status and
12 contacted ICE. ICE officers arrived and detained Petitioner. No criminal charges were filed. No judicial
13 warrant was presented. No individualized custody determination was made prior to transfer into ICE
14 custody.
15

16 Regardless of the circumstances of the roadside encounter, DHS's authority to detain Petitioner
17 must be grounded in the Immigration and Nationality Act. The dispositive issue before this Court is
18 whether his continued detention without bond is authorized under § 1225(b) or governed by § 1226(a). As
19 explained above, the statute compels the latter conclusion.
20

21 **C. Petitioner Is Suffering Irreparable Harm**

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

26 Petitioner has now been detained since February 16, 2026, without any opportunity for an
27 individualized custody determination. Each day of confinement inflicts renewed constitutional injury.
28

1 The harm is especially acute here because DHS previously determined For nearly three yearsthat
2 Petitioner could safely remain at liberty. His sudden re-detention—without any alleged violation or
3 changed circumstance—constitutes a categorical deprivation of liberty untethered to any individualized
4 assessment. Petitioner’s detention has severed him from his family, impaired his ability to assist in his
5 pending asylum case, and subjected him to confinement despite a spotless compliance record.

6
7 He also faces a real and imminent risk of transfer outside the District of Colorado, a routine ICE
8 practice. Transfer would disrupt access to counsel and complicate this Court’s jurisdiction, further
9 compounding irreparable harm. Petitioner could safely remain at liberty. His sudden re-detention—
10 without violation or changed circumstance—is a categorical deprivation of liberty. Petitioner is separated
11 from family, hindered in pursuing his asylum claim, and faces the risk of transfer outside the District of
12 Colorado, which would frustrate judicial review.

13
14 This ongoing detention satisfies the Tenth Circuit standard for irreparable harm.

15 **D. The Balance of Equities and Public Interest Favor Relief**

16 The balance of equities weighs decisively in Petitioner’s favor. For nearly three years, DHS itself
17 determined—through continued release under ATD supervision—that Petitioner posed no danger to the
18 community and no risk of flight. Petitioner complied with every supervision requirement and remained
19 fully available to DHS for monitoring and enforcement.
20

21 By contrast, Petitioner’s sudden re-detention on February 16, 2026, without notice, without any
22 alleged violation, and without an individualized custody determination, inflicts severe and immediate
23 harm on Petitioner.
24

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

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

VI. CONCLUSION

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

Respectfully,

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Dated this 19th day of February, 2026.