

1 United States. A bond hearing before an Immigration Judge is an inadequate remedy (see
2 ¶¶ 71-80

3
4 **2. Petitioner respectfully asks the Court to issue an order requiring**
5 **Respondents to answer and show cause as to why the habeas should not be granted**
6 **within 5 days.** There are no factual questions in this case. The legal issues are familiar to
7 the Court and to the parties and have been resolved nearly unanimously, across the
8 country, in favor of Petitioner and similarly situated persons.

9 3. Affording lengthy response time serves no purpose as Respondents will submit the
10 same arguments they have in other cases. They may advise the Court of the existence of
11 pending appellate litigation though there is no pending case that necessarily will decide
12 the issues here, nor is there any intervening controlling precedent. Respondents should
13 not be allowed to continue to be ‘rewarded’ for their unlawful acts.

14 4. Petitioner is an asylum seeker who fled India. **Petitioner arrived in the U.S. on**
15 **April 17, 2023. He entered without visa or inspection and was encountered and**
16 **apprehended by Customs and Border Protection inside the United States.**

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18 5. **Petitioner was released from custody on April 20, 2023, under §**
19 **1226(a)(B)(2) (‘conditional parole).** Then, over two years later, while complying with
20 all the rules imposed by Respondents and U.S. law, **he was rearrested despite no**
21 **change in material circumstances,** and without predeprivation hearing. He has no
22 criminal record and has not violated any conditions of release from initial custody.

23 6. Respondents now claim Petitioner is lawfully detained under § 1225(b) and
24 ineligible for bond hearing or release from custody.

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26 7. Petitioner is being detained at Denver contract detention facility 3130 North
27 Oakland St. in Aurora, Colorado.

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1 8. District Courts across the country have, nearly unanimously, found Respondents'
2 detention, without prior hearing and/or refusal to hold bond hearings, unlawful in
3 identical or similar circumstances.

4 9. *Diallo v. Baltazar*, Civil Action No. 1:25-cv-3548-SKC, 2026 U.S. Dist. LEXIS
5 17341, at *7 (D. Colo. Jan. 29, 2026); *Marin v. Baltazar*, Civil Action No. 25-cv-03697-
6 PAB, 2025 U.S. Dist. LEXIS 261962, at *11 (D. Colo. Dec. 18, 2025) *Puerto v. Leeper*,
7 No. 26-CV-405, 2026 U.S. Dist. LEXIS 14909, at *3 (E.D.N.Y. Jan. 27, 2026)(noting
8 “hundreds” of Courts in agreement); *Echevarria v. Bondi*, No. CV-25-03252, 2025 LX
9 492534 (D. Ariz. Oct. 3, 2025); *Doe v. Becerra*, No. 2:25-cv-647-DJC-DMC, 2025 U.S.
10 Dist. LEXIS 37929 at *8 (E.D. Cal. Mar. 3, 2025) (granting temporary restraining order);
11 *M.B. v. Noem*, No. 1:26-cv-00005-DJC-AC, 2026 U.S. Dist. LEXIS 4661, at *5-8 (E.D.
12 Cal. Jan. 9, 2026); *J.S.H.M v. Wofford*, No. 1:25-cv-01309-JLT-SKO, 2025 U.S. Dist.
13 LEXIS 204422, 2025 WL 2938808; *Alberto R.C. v. Murray*, No. 1:25-cv-01618-KES-
14 SKO (HC), 2025 LX 513970 (E.D. Cal. Dec. 16, 2025); *Sharan S. v. Chestnut*, No. 1:25-
15 cv-01427-KES-SKO (HC), 2025 LX 524863 (E.D. Cal. Nov. 12, 2025); *López v.*
16 *Wofford*, No. 1:25-cv-01226-KES-SKO (HC), 2025 LX 491132, (E.D. Cal. Oct. 17,
17 2025)(requiring release of asylum seeker and a pre-detention bond hearing before re-
18 arrest *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 U.S. Dist. LEXIS 127539 at *4
19 (N.D. Cal. July 4, 2025) (same), (N.D. Cal. July 24, 2025);

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21 10. Civil Immigration Detention is generally only permissible for only two reasons: to
22 ensure a noncitizen’s appearance at immigration hearings and to prevent danger to the
23 community. *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 U.S. Dist. LEXIS
24 190934, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025) (citing *Zadvydas v. Davis*,
25 533 U.S. 678, 695 (2001).

26 11. Petitioner’s arrest and detention are causing him and his family ongoing and
27 irreparable harm. The conditions of confinement are punitive in nature and access to
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1 counsel to assist in preparation for his application for asylum is limited. Additionally,
2 petitioner is unable to work limiting his ability to support himself and afford counsel.

3
4 12. The Constitution protects Petitioner—and every other person present in this
5 country—from arbitrary arrest and detention and guarantees him due process of law.
6 While the Executive Branch has broad power over the regulation of noncitizens, those
7 powers are still “subject to important constitutional limitations.” *Zadvydas*, 533 U.S. at
8 695. “Freedom from bodily restraint has always been at the core of the liberty protected
9 by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*,
10 504 U.S. 71, 80 (1992).

11 13. Petitioner respectfully seeks a writ of habeas corpus ordering the government to
12 release him from unlawful detention, prohibiting his re-arrest absent a finding that he is a
13 danger to his community or a flight risk from a neutral decisionmaker.

14 **II. JURISDICTION AND VENUE**

15 14. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal
16 question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory
17 Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S.
18 Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S.
19 Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

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21 15. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
22 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this
23 district.

24 **III. PARTIES**

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26 16. Petitioner, Mantajbeer Singh, is a 23-year-old native and citizen of India. He is
27 presently in physical custody of Immigration and Customs Enforcement (ICE) in Aurora
28 Colorado.

1 17. Respondent, Robert Hagan, is the Field Office Director of the Denver Immigration
2 and Customs Enforcement Field Office. In this capacity, he is responsible for the
3 administration of immigration laws and the execution of immigration enforcement and
4 detention policy within ICE's Colorado Area of Responsibility, including the detention of
5 Petitioner. He is sued in his official capacity.

6 18. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
7 Performing the Duties of the Director of ICE, he is responsible for the administration and
8 enforcement of the immigration laws of the United States, routinely transacts business in
9 this District, and is legally responsible for pursuing any effort to detain and remove the
10 Petitioner. Respondent Lyons is sued in his official capacity.

11 19. Respondent Kristi Noem is the Secretary of Homeland Security and has ultimate
12 authority over DHS. In that capacity and through her agents, Respondent Noem has broad
13 authority over and responsibility for the operation and enforcement of the immigration
14 laws; routinely transacts business in this District; and is legally responsible for pursuing
15 any effort to detain and remove the Petitioner. Respondent Noem is sued in her official
16 capacity.

17 20. Respondent Pamela Bondi is the Attorney General of the United States and the
18 most senior official at the Department of Justice. In that capacity and through her agents,
19 she is responsible for overseeing the implementation and enforcement of the federal
20 immigration laws. The Attorney General delegates this responsibility to the Executive
21 Office for Immigration Review, which administers the immigration courts and the BIA.
22 Respondent Bondi is sued in her official capacity.

23 IV. EXHAUSTION

24 21. There is no requirement to exhaust because no other forum exists in which
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26 Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to
27 challenging the constitutionality of an arrest or detention or challenging a policy under the
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1 Administrative Procedure Act. Prudential exhaustion is not required here because it would
2 be futile, and Petitioner will “suffer irreparable harm if unable to secure immediate judicial
3 consideration of [their] claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). Any
4 further exhaustion requirements would be unreasonable.

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6 22. EOIR has recently issued guidance to all immigration judges instructing that *Matter*
7 *of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)(any noncitizen who entered without
8 inspection is subject to § 1225(b)) remains binding in all immigration courts despite
9 orders from various district courts including in class litigation in the Central District of
10 California.

11 V. LEGAL BACKGROUND

12 A. The Constitution prohibits arbitrary arrest and detention of noncitizens

13 23. The Constitution affords and requires due process rights for “all ‘persons’ within
14 the United States, including [noncitizens], whether their presence here is lawful, unlawful,
15 temporary, or permanent.” *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017)
16 (quoting *Zadvydas*, 533 U.S. at 693). These due process rights are both substantive and
17 procedural.

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19 24. First, “[t]he touchstone of due process is protection of the individual against
20 arbitrary action of government,” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974), including
21 “the exercise of power without any reasonable justification in the service of a legitimate
22 government objective,” *Cnty. of Sacramento v. Lewis*, 523 U.S. 833, 846 (1998).

23 25. These protections extend to noncitizens as “[i]n our society liberty is the norm, and
24 detention prior to trial or without trial is the carefully limited exception.” *United States v.*
25 *Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom from imprisonment—from
26 government custody, detention, or other forms of physical restraint—lies at the heart of the
27 liberty that [the Due Process] Clause protects.” *Zadvydas*, 533 U.S. at 690.

1 26. Substantive due process requires that all forms of civil detention—including
2 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See*
3 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only
4 two permissible non-punitive purposes for immigration detention: ensuring a noncitizen’s
5 appearance at immigration proceedings and preventing danger to the community.
6 *Zadvydas*, 533 U.S. at 690–92; *see also Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28,
7 31 (2003).

8
9 27. Secondly, the Due Process Clause’s procedural protections require that even
10 permissible forms of detention only be imposed where procedural safeguards are in place
11 and have been followed. *Lopez v. Heinauer*, 332 F.3d 507, 512 (8th Cir. 2003) (“The
12 Supreme Court has long recognized that deportable aliens are entitled to constitutional
13 protections of due process.”).

14 28. Except in rare situations, “the Constitution requires some kind of a hearing before
15 the State deprives a person of liberty or property.” *Zinerman v. Burch*, 494 U.S. 113, 127
16 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v.*
17 *D.C., Gov’t*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-
18 detention after pre-parole conditional supervision requires pre-deprivation hearing));
19 *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v.*
20 *Brewer*, 408 U.S. 471 (1972) (same, in parole context).

21 29. After an initial release from custody on conditions, even a person paroled
22 following a conviction for a criminal offense for which they may lawfully have remained
23 incarcerated has a protected liberty interest in that conditional release. *Morrissey*, 408
24 U.S. at 482. As the Supreme Court recognized, “[t]he parolee has relied on at least an
25 implicit promise that parole will be revoked only if he fails to live up to the parole
26 conditions.” *Id.* “By whatever name, the liberty is valuable and must be seen within the
27 protection of the [Constitution].” *Id.*

28 30. This reasoning applies with equal or greater force to people released from civil

1 immigration detention. Noncitizens residing in the United States, like Petitioner, have a
2 protected liberty interest in their ongoing freedom from detention. *See Zadvydas*, 533
3 U.S. at 690. Further, “[g]iven the civil context [of immigration detention], [the] liberty
4 interest [of noncitizens released from custody] is arguably greater than the interest of
5 parolees.” *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

6
7 **B. Due Process and the Immigration and Nationality Act Protect Noncitizens
8 from Summary Removal Without a Hearing.**

9 31. Deportation, like detention, constitutes a deprivation of liberty protected by the
10 Due Process Clause. A noncitizen’s interest in deportation proceedings “is, without
11 question, a weighty one” because “he stands to lose the right ‘to stay and live and work in
12 this land of freedom.’” *Landon v. Plasencia*, 459 U.S. 21, 34 (1982) (quoting *Bridges v.*
13 *Wixon*, 326 U.S. 135, 154 (1945)).

14 32. Removal proceedings under Section 240 of the Immigration and Nationality Act
15 (“Section 240” proceedings) accordingly provide important substantive and procedural
16 protections. Noncitizens placed in Section 240 proceedings following initial arrest (as was
17 the petitioner in this case) are entitled to full hearings in immigration court before
18 immigration authorities can remove them. 8 U.S.C. § 1229a. Congress has afforded
19 statutory rights and protections including the right to be represented by counsel of their
20 choice, and the right to present and confront evidence. 8 U.S.C. § 1229a(4). They are also
21 entitled to administrative appellate review at the Board of Immigration Appeals and
22 further judicial review in the federal Courts of Appeals. *See* 8 C.F.R. § 1003.1(b) (Board
23 of Immigration Appeals); 8 U.S.C. § 1252(a)(5) (Courts of Appeals).

24 **C. Detention under the Immigration & Nationality Act: 8 U.S.C. §§ 1225 & 1226**

25 33. Detention of noncitizens who have not been ordered removed is generally
26 governed by one of two sections of the Immigration and Nationality Act: INA §§ 235 &
27 236 (8 U.S.C. §§ 1225, 1226).

28 34. Section 1225 is titled "Inspection by immigration officers; expedited removal of

1 inadmissible arriving aliens; referral for hearing." The statute provides:

2
3 An alien present in the United States who has not been admitted or who arrives in
4 the United States . . . shall be deemed for purposes of this chapter an applicant for
5 admission. Subject to subparagraphs (B) and (C), in the case of an alien who is an
6 applicant for admission, if the examining immigration officer determines that an
7 alien seeking admission is not clearly and beyond a doubt entitled to be admitted,
8 the alien shall be detained for a proceeding under section 1229a of this title. 8
9 U.S.C. § 1225(a)(1), (b)(2)(A).

10 35. An applicant is seeking "admission," as that term is defined by § 1101(a)(13)(A),
11 if he is seeking entry "lawful entry . . . after inspection" and authorization. *Tovar v.*
12 *Noem*, No. 5:25-CV-1509-JKP, 2025 U.S. Dist. LEXIS 250408, at *13 (W.D. Tex. 2025)

13 36. An "[a]rriving alien means an applicant for admission coming or attempting to
14 come into the United States . . . regardless of the means of transport." 8 C.F.R. § 1.2.
15 "Admission" and "admitted" mean "the lawful entry of the alien into the United States
16 after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A).
17

18 37. Noncitizens subject to mandatory detention under § 1225(b) may be released only
19 if they are "paroled 'for urgent humanitarian reasons or significant public benefit.'"
20 *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL
21 1869299, at *2 (D. Mass. July 7, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A)); *see also*
22 *Hyppolite v. Noem*, No. 25-CV-4304 (NRM), 2025 U.S. Dist. LEXIS 197628, 2025 WL
23 2829511, at *7 (E.D.N.Y. Oct. 6, 2025) (describing mandatory detention under § 1225).

24 38. Section 1226 titled "Apprehension and detention of aliens," states:
25

26 On a warrant issued by the Attorney General, an alien may be arrested and
27 detained pending a decision on whether the alien is to be removed from the United
28 States. Except as provided in subsection (c) and pending such decision, the
Attorney General—

1 (1) may continue to detain the arrested alien; and

2 (2) may release the alien on—

3 (A) bond of at least \$1,500 with security approved by, and containing conditions
4 prescribed by, the Attorney General; or

5 (B) conditional parole8 U.S.C. § 1226(a) therefore creates a "discretionary
6 detention framework" for noncitizens arrested and detained on a warrant issued by
7 the Attorney General. Gomes, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299,
8 at *2. It "authorizes the [g]overnment to detain certain aliens already in the
country pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289.

9 39. The arresting immigration officer has authority to make the initial custody
10 determination. *See Gomes*, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2
11 (citing 8 C.F.R. § 1236.1(c)(8)).

12 40. The noncitizen then "ha[s] the right to request a custody redetermination (i.e.,
13 bond) hearing before an Immigration Judge." *Id.* (citing 8 C.F.R. § 1236.1(c)(8), (d)(1)).
14 "Bond may be denied only if the government 'either (1) prove[s] by clear and convincing
15 evidence that [the noncitizen] poses a danger to the community or (2) prove[s] by a
16 preponderance of the evidence that [the noncitizen] poses a flight risk.'" *Id.* (alterations in
17 original) (quoting *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021)).

18 41. Section 1226(a)(2)(B) also allows release "on an Order of Recognizance, which is
19 a form of conditional parole." *Id.* (citations omitted).

20 42. § 1226(a) requires "an individualized bond determination before a noncitizen may
21 be taken into custody." *Artiga v. Genalo*, No. 25 CV 5208 (OEM), 2025 U.S. Dist.
22 LEXIS 196847, 2025 WL 2829434, at *8 (E.D.N.Y. Oct. 5, 2025); *Rodriguez v. Bostock*,
23 No. 25 CV 05240 (TMC), 2025 WL 2782499, at *16-26 (W.D. Wash. Sep. 30, 2025);
24 *Salcedo Aceros v. Kaiser*, No. 25 CV 06924 (EMC), 2025 U.S. Dist. LEXIS 179594,
25 2025 WL 2637503, at *6-13 (N.D. Cal. Sep. 12, 2025); *Belsai D.S. v. Bondi*, No. 25 CV
26 3682, 2025 U.S. Dist. LEXIS 194262, 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025)
27 (collecting cases).
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VI. FACTUAL ALLEGATIONS

A. DHS and EOIR seek to increase arrests and detentions

43. Since early last year, DHS has implemented a series of policies aimed at detaining noncitizens present in the United States without inspection and even those who had previously been released from custody on bond, recognizance, or on parole.

44. DHS's policies appear to be motivated by the Administration's imposition of quotas of 3,000 ICE arrests per day. In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January 2025.¹

45. The government's new campaign is also a significant shift from previous DHS practice, guided by clear judicial precedent, of only re-detaining noncitizens previously released only upon a material change in circumstances. *See e.g. Lorenzo C.P. v. Noem*, No. 1:25-cv-181, 2025 U.S. Dist. LEXIS 264574, at *7-8 (S.D. Tex. 2025) *De Jesús Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 U.S. Dist. LEXIS 231463, at *15 (N.D. Ind. Nov. 25, 2025) *Salinas v. Woosley*, No. 4:25 Civ. 121, 2025 U.S. Dist. LEXIS 228539, 2025 WL 3243837, at *2 (W.D. Ky. Nov. 20, 2025); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice);

B. BIA decision aligns Agency precedent with novel and expanded use of detention to all persons present without having been inspected; Respondents increase pretextual rearrests

46. For decades, noncitizens who entered without inspection, were arrested in the United States and were placed into removal proceedings were generally subject to

¹ José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, *The Guardian*, June 14, 2025, <https://www.theguardian.com/us-news/2025/jun/14/ice-arrests-migrants-trump-figures>.

1 discretionary detention under 8 U.S.C. § 1226(a) (and its predecessor statute). Under that
2 framework, they could be considered for release on bond or conditional parole by the
3 Department of Homeland Security (“DHS”) and receive a bond hearing in immigration
4 court before an IJ who could order release if found not to pose an undue flight risk or
5 danger that justified continued detention.

6
7 47. The government upended this long-held policy and understanding of the law in
8 2025.

9 48. First, on July 8, 2025, U.S. Immigration and Customs Enforcement (“ICE”) issued
10 an interim guidance memo stating that anyone who entered without inspection was
11 ineligible for release on bond and could not challenge their detention at a bond hearing in
12 immigration court, regardless of how long an individual has lived in the United States.

13 49. As a result, DHS attorneys started arguing, and some IJs started finding that such
14 individuals were not eligible for bond hearings in immigration court.

15
16 50. Then, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a
17 precedential decision, binding on all IJs, holding that an IJ had no authority to consider
18 bond requests for any person who entered the United States without inspection. *See Matter*
19 *of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

20 51. Respondents have continued to rearrest and detain noncitizens across the country
21 who entered the U.S. without inspection even where the noncitizen was previously
22 released from custody under INA § 1226(a).

23
24 52. Respondents often cite to de minimis alleged violations of conditions of prior
25 release as pretext for rearrest.

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27 53. Numerous sources have reported that the alleged violations are not supported in
28 Respondents’ records keeping systems or that noncitizens report the alleged violations are
simply not accurate. *See e.g. Ramazan M. v. Andrews*, No. 1:25-cv-01356-KES-SKO

1 (HC), 2025 WL 3145562, at *6 (E.D. Cal. Nov. 10, 2025) (ordering pre-deprivation
2 hearing where Respondents alleged check-in and other electronic monitoring violations,
3 because “[w]hile respondents argue that petitioner is a flight risk, the purpose of a bond
4 hearing is for a neutral decisionmaker to consider and evaluate such an argument to
5 determine whether it is consistent with the facts and to ensure that noncitizens like
6 petitioner are not deprived of their liberty without justification”), and at *E.A. T.B. v.*
7 *Wamsley*, No. C25-1192-KKE, 2025 WL 2402130, at *4 (W.D. Wash. Aug. 19, 2025)
8 (ordering immediate release of petitioner and finding that it does not “necessarily follow
9 that Petitioner can be detained for [release conditions] violations without a hearing. That
10 the Government may believe it has a valid reason to detain petitioner does not eliminate
11 its obligation to effectuate the detention in a manner that comports with due process.”).

12 54. Judges have also found the supposed violations “negligible” or been skeptical of
13 existence of purported violations. *See e.g. Alas v. Albarran*, 2025 U.S. Dist. LEXIS
14 207060 *2 FN1(ND Cal. Oct. 15, 2025).

15 16 **C. Petitioner’s unlawful arrest and detention**

17 55. Petitioner is a 23-year-old citizen and native of India.

18 56. Petitioner entered the United States without inspection on April 17, 2023.

19 57. Petitioner was arrested by Customs Border Protection inside the United States on
20 that same April 17, 2023.

21 58. Petitioner was not formally inspected at time of initial arrest.

22 59. On April 20, 2023, Petitioner was released on his own recognizance under Section
23 1226(a)(B)(2) (conditional parole).

24 60. Petitioner was not paroled from custody pursuant to § 1182(d)(5).

25 61. No credible fear or other interview as to admissibility occurred during initial
26 arrest.

27 62. On April 20, 2023, CBP issued a Notice to Appear in § 1229a Removal
28

1 Proceedings

2 63. Petitioner thereafter filed an application for asylum with the Immigration Court.

3 64. Petitioner applied for temporary work authorization and his application was
4 approved.

5 65. Over two-years later Respondents rearrested Petitioner though no material change
6 in circumstances occurred, no warrant was issued, and no pre-detention hearing
7 was held.

8 66. Petitioner was pulled over by Highway Patrol though it does not appear any
9 charges were filed or crime committed. Law Enforcement contacted
10 Immigration Customs Enforcement though Petitioner was, and is, lawfully
11 present in the United States.

12 67. Petitioner was not provided with a pre-deprivation hearing or notice of the basis
13 for his detention.

14 68. Petitioner was not deemed to be a danger to the community or a flight risk.

15 69. The Notice to Appear does not allege Petitioner is an 'arriving alien,' though
16 containing box to designate this information.

17 70. Petitioner has never been arrested or missed any appointments with Immigration
18 Customs Enforcement, or any other agency, and has complied with all terms of
19 his conditional parole.
20

21 71. Petitioner remains detained in Respondents' custody at this time.

22 **D. Bond hearing before an Immigration Judge is an inadequate remedy**

23 72. Petitioner is unlikely to receive a fair bond hearing before an immigration judge

24 73. Scores of judges have been fired, resigned, or retired in the wake of unprecedented
25 interference with their independence and quasi-judicial function.
26

27 74. On Information and belief, Respondents have issued directives to immigration judges
28 encouraging and, effectively ordering, that most bond requests should be denied on

1 'flight-risk' grounds.

2 75. Even where bond hearings are granted, they are conducted in rushed and grossly unfair
3 settings. Noncitizens often have difficulties hearing judges or translators through
4 video conferences from detention centers, have limited access to counsel to
5 prepare, and hearings are conducted rapidly without full consideration of evidence
6 or testimony.

7 76. Immigration Judges often do not even permit testimony from noncitizens or their
8 witnesses before entering a judgment.

9 77. Immigration Judges do not have time to review filings submitted in support of request
10 for release on bond prior to hearings.

11 78. Immigration Judges are not given the time or resources to adequately conduct fair
12 bond or merits hearings in the detained or non-detained setting.

13 79. Immigration Judges often cite little or no reasoning in determining that noncitizens are
14 a flight-risk.

15 80. Appeals from Bond decisions take more than 6 months and are unlikely to result in
16 reversal of a judge's finding.

17 81. Counsel is unaware of any bond denial being reversed by the BIA in the last 13
18 months, despite conversing with scores of practitioners regularly about this and
19 related issues.
20

21 **E. Petitioner is not a flight risk**

22 82. Petitioner has fully complied with all requirements to apply for asylum protection,
23 to appear at immigration appointments following his unlawful entry to the U.S.

24 83. Petitioner retained counsel, secured employment, and has not engaged in any
25 behavior suggestive of flight-risk.

26 84. Petitioner has never been determined to be a flight risk or danger to the
27 community; his detention is not related to either of the permissible
28 justifications for civil immigration detention.

1 **F. Petitioner is suffering irreparable and ongoing harm as a result of unlawful**
2 **detention**

3 85. Petitioner is being deprived of his liberty without lawful basis or permissible
4 justification. Petitioner is unable to fully participate and assist in preparation of
5 his case to present to the immigration court.

6 86. Petitioner is unable to work, though having been granted employment
7 authorization by Respondents, and is struggling to support himself and to
8 continue to afford to pay legal fees for attorneys to assist in his case.

9
10 **VII. CLAIMS FOR RELIEF**

11 **FIRST CLAIM FOR RELIEF**

12 Violation of the Fifth Amendment to the United States Constitution

13 **(Substantive Due Process—Detention)**

14 87. Petitioner repeats and realleges the allegations contained in the preceding
15 paragraphs of this Petition as if fully set forth herein.

16
17 88. The Due Process Clause of the Fifth Amendment protects all “person[s]”
18 from deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom
19 from imprisonment—from government custody, detention, or other forms of physical
20 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
21 *Zadvydas*, 533 U.S. at 690.

22 89. Immigration detention is constitutionally permissible only when it furthers
23 the government’s legitimate goals of ensuring the noncitizen’s appearance during removal
24 proceedings and preventing danger to the community. *See id.*

25
26 90. Petitioner is not a flight risk or danger to the community. Respondents have
27 already made this determination and nothing has changed. Respondents’ detention of
28 Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained

1 in violation of the Due Process Clause of the Fifth Amendment.

2
3 91. Moreover, Petitioner’s detention is punitive as it bears no “reasonable
4 relation” to any legitimate government purpose. *Id.* (finding immigration detention is civil
5 and thus ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s
6 detention appears to be “not to facilitate deportation, or to protect against risk of flight or
7 dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed
8 DHS quotas and transfer immigration court venue away from an IJ who refused to
9 facilitate DHS’s new expedited removal scheme. *Demore*, 538 U.S. at 532–33 (Kennedy,
10 J., concurring).

11 **SECOND CLAIM FOR RELIEF**

12 **Violation of the Fifth Amendment to the United States Constitution**

13
14 **(Procedural Due Process—Detention without precustodial hearing or notice)**

15
16 92. Petitioner repeats and re-alleges the allegations contained in the preceding
17 paragraphs of this Petition as if fully set forth herein.

18
19 93. Petitioner has a strong liberty interest under the Due Process Clause in not
20 being re-incarcerated after prior release. *See Young v. Harper*, 520 U.S. 143, 146–47
21 (1997); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp.
22 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of
23 custody following an IJ’s bond determination); *Nadia Cristina DA Rocha Rosado v. Fred*
Figueroa, Warden, Eloy Det. Ctr., 2025 U.S. Dist. LEXIS 156344, *35.

24
25 94. Accordingly, “[i]n the context of immigration detention, it is well-settled
26 that due process requires adequate procedural protections to ensure that the government’s
27 asserted justification for physical confinement outweighs the individual’s constitutionally
28 protected interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned
up); *Zinermon*, 494 U.S. at 127 (Generally, “the Constitution requires some kind of a

1 hearing before the State deprives a person of liberty or property.”). In the immigration
2 context, for such hearings to comply with due process, the government must bear the
3 burden to demonstrate, by clear and convincing evidence, that noncitizens pose a flight
4 risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir.
5 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

6
7 95. Petitioner’s re-detention without notices of reasons or a pre-detention
8 hearing violated due process. Over a year after deciding to release Petitioner from custody
9 and doing so under Section 1226(a)(B)(2), Respondents have re-detained Petitioner
10 without prior notice, a hearing, and without any relevant change in circumstances.

11 96. Petitioner’s continued detention without prior hearing constitutes an ongoing
12 violation of petitioner’s Constitutional right to under the Due Process Clause.

13 **THIRD CLAIM FOR RELIEF**

14 **Violation of the Immigration & Nationality Act**

15
16 97. Petitioner repeats and re-alleges the allegations contained in the preceding
17 paragraphs of this Petition as if fully set forth herein.

18 98. Respondent’s claim that Petitioner is detained pursuant to 8 U.S.C 1225(b).

19 99. Petitioner, who was previously arrested and released under § 1226, and then
20 rearrested over a year later, is not properly subject to § 1225(b).

21 100. Respondents may only detain noncitizens pursuant to specific authority
22 under U.S. law.

23 101. No statutory authority exists authorizing Petitioner’s Continued detention
24 under this section is therefore unlawful.

25 **VIII. VERIFICATION OF PETITION**

26
27 102. I, Laxman Adhikari, hereby swear and affirm subject to penalty of perjury, that the
28 contents of this petition are true and correct to the best of my knowledge and based on

1 discussion with Petitioner and review of his electronic record of proceedings maintained
2 by the Immigration Court (EROP).

3
4 **IX. PRAYER FOR RELIEF**

5 Petitioner respectfully requests that this Court:

- 6 1. Assume jurisdiction over this matter;
- 7 2. Issue a writ of habeas corpus ordering Respondents **to immediately release**
8 Petitioner from custody under no more restrictive conditions than existed at
9 the time immediately before his unlawful rearrest;
- 10 3. Declare that Petitioner's arrest and detention violate the Due Process Clause
11 of the Fifth Amendment and the Immigration and Nationality Act.
- 12 4. Enjoin Respondents from detaining Petitioner under § 1226(a) unless his
13 detention is ordered at a custody hearing before a neutral arbiter in which the
14 government bears the burden of proving, by clear and convincing evidence,
15 that Petitioner is a flight risk or danger to the community;
- 16 5. Order that Respondents may not arrest Petitioner while INA § 1229a
17 proceedings are ongoing, including during any direct appeal from dismissal of
18 proceedings by the Immigration Judge absent a material change in
19 circumstances;
- 20 6. Award Petitioner costs and reasonable attorneys' fees in this action as provided
21 for by the Equal Access to Justice Act and 28 U.S.C. § 2412 (upon motion and
22 evidence pursuant to D.C.COLO.LCivR 54.3); and
- 23 7. Grant such further relief as the Court deems just and proper.

24 Respectfully submitted this 21th Day of February 2026,

25 /s/Laxman Adhikari

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