

Magistrate Judge Theresa L. Fricke

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

SIMRANJOT SINGH,

Petitioner,

v.

KRISTI NOTEM *et al.*,

Respondents.

Case No. 2:26-cv-00766-TLF

FEDERAL RESPONDENTS'
RETURN MEMORANDUM

Noted for Consideration:
March 25, 2026

I. INTRODUCTION

This Court should deny Petitioner's Petition for Writ of Habeas Corpus. Dkt. 1. Petitioner, a native and citizen of India who has never been admitted or paroled into the United States, challenges his ongoing detention at the Northwest ICE Processing Center (NWIPC). He asserts that 8 U.S.C. § 1226 governs his custody because removal proceedings remain pending, and he claims Fifth Amendment due-process violations and irreparable injury. Petitioner seeks immediate release plus permanent injunctive relief that would impose procedural requirements not found in statute and prohibit any future GPS monitoring. His detention is instead governed by 8 U.S.C. § 1225(b)(2)(A) following his January 11, 2026, return to the United States at the Blaine port of entry after Canadian authorities intercepted his attempted illegal entry into Canada. The Petition lacks merit and should be denied in its entirety.

II. FACTUAL AND PROCEDURAL HISTORY

A. Petitioner Simranjot Singh

Petitioner is a native and citizen of India. Declaration of Deportation Officer Harold Britt Jr. (Britt Decl.) ¶ 3; Declaration of Lawrence Van Daley (Van Daley Decl.) Exhibit (Ex.) 1, Form I-213. On or about April 10, 2019, he entered the United States without inspection at or near Calexico, California, and was processed for expedited removal. *Id.* He was detained at the Imperial Regional Adult Detention Center. *Id.* On April 15, 2019, he expressed a fear of return to India and was referred to U.S. Citizenship and Immigration Services (USCIS) for a credible-fear interview. Britt Decl., ¶ 4. On May 21, 2019, USCIS issued a negative credible-fear determination. *Id.* Petitioner requested review by an Immigration Judge on June 5, 2019. *Id.* On June 12, 2019, the Immigration Judge found a positive credible fear, vacated the expedited-removal order, and placed Petitioner in section 240 removal proceedings. Britt Decl., ¶ 5.

On June 18, 2019, the Department of Homeland Security (DHS) served Petitioner with a Notice to Appear charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i). Britt Decl., ¶ 6. On June 19, 2019, Petitioner requested a custody redetermination. *Id.* On July 5, 2019, an Immigration Judge in Imperial, California, ordered his release on \$20,000 bond. Britt Decl. ¶ 7. Petitioner posted bond and was released on July 16, 2019, into the Alternatives to Detention (ATD) program with a non-removable GPS ankle monitor. *Id.*

On May 28, 2021, an Immigration Judge in San Francisco denied Petitioner's applications for asylum, withholding of removal, and Convention Against Torture protection and ordered him removed to India. Britt Decl., ¶ 8. Petitioner reserved appeal and filed his appeal with the Board of Immigration Appeals (BIA) on June 22, 2021. *Id.* That appeal remains pending.

On January 11, 2026, Canadian border authorities apprehended Petitioner attempting to enter Canada without inspection. Britt Decl., ¶ 9; Van Daley Decl., Ex. 1. He was returned to the

1 United States at the Blaine, Washington port of entry and taken into custody by Customs and
2 Border Protection. Britt Decl., ¶ 9; Van Daley Decl., Ex. 2, Canada Removal. On January 12, 2026,
3 DHS issued a Form I-200 Warrant of Arrest, cancelled Petitioner's prior bond, and transferred him
4 to the NWIPC in Tacoma, Washington, where he remains detained. Britt Decl., ¶ 10; Van Daley
5 Decl., Ex. 3, Warrant. On February 27, 2026, Petitioner sent an inter-facility message to
6 Enforcement and Removal Operations stating that he had instructed his attorney to withdraw the
7 pending BIA appeal. Britt Decl., ¶ 11.

8 **B. Detention Authority**

9 Congress has established distinct statutory schemes governing the detention of aliens
10 during removal proceedings. For inadmissible aliens seeking admission to the United States,
11 detention is governed by 8 U.S.C. § 1225(b). Under 8 U.S.C. § 1225(b)(2)(A), "if the examining
12 immigration officer determines that an alien seeking admission is not clearly and beyond a doubt
13 entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this
14 title." An alien present in the United States who has not been admitted or paroled "shall be deemed
15 for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). The statute
16 provides only one exception to mandatory detention: the Attorney General may, in his discretion,
17 parole an alien into the United States temporarily under 8 U.S.C. § 1182(d)(5)(A) for urgent
18 humanitarian reasons or significant public benefit.

19 The Supreme Court has interpreted these provisions to mandate detention of applicants for
20 admission until certain proceedings have concluded, with no provision for bond hearings. *Jennings*
21 *v. Rodriguez*, 583 U.S. 281, 298 (2018). The Court has further explained that 8 U.S.C. § 1225
22 "authorizes the Government to detain certain aliens seeking admission into the country," while 8
23 U.S.C. § 1226 "authorizes the Government to detain certain aliens already in the country pending
24 the outcome of removal proceedings." *Jennings*, 583 U.S. at 289–90.

1 In *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), the Fifth Circuit held that
2 noncitizens present in the United States without having been admitted are “applicants for
3 admission” under 8 U.S.C. § 1225(a)(1) and are subject to mandatory detention under 8 U.S.C. §
4 1225(b)(2)(A) during removal proceedings. The court rejected arguments that such individuals are
5 instead detained under 8 U.S.C. § 1226(a) and entitled to bond hearings, emphasizing the plain
6 text of 8 U.S.C. § 1225(b)(2)(A) as a catchall provision for unadmitted aliens without an exception
7 for discretionary release on bond. *Buenrostro-Mendez*, 166 F.4th at 499.

8 By contrast, for aliens who have been admitted to the United States or who are otherwise
9 not subject to expedited removal proceedings under 8 U.S.C. § 1225(b), detention pending a
10 decision on removal is governed by 8 U.S.C. § 1226. Under that provision, the Attorney General
11 generally has discretion to release certain aliens on bond or conditional parole, subject to the
12 mandatory detention requirements of 8 U.S.C. § 1226(c) for specific categories of criminal aliens.
13 See *Jennings*, 583 U.S. at 289–90 (comparing the two statutory schemes).

14 Because removal proceedings have not yet resulted in a final order of removal, Petitioner’s
15 detention constitutes pre-final-order detention. The post-removal-order detention provisions of 8
16 U.S.C. § 1231(a) and the six-month presumption of reasonableness recognized in *Zadvydas v.*
17 *Davis*, 533 U.S. 678 (2001), therefore do not apply. *Johnson v. Guzman Chavez*, 594 U.S. 523,
18 531 (2021).

19 III. LEGAL AUTHORITY

20 This Court has jurisdiction to review Petitioners’ habeas claims under 28 U.S.C. § 2241,
21 as habeas jurisdiction extends to challenges to immigration detention. *Zadvydas*, 533 U.S. at 688.
22 However, the Petition fails on the merits. Petitioners’ detention is lawful, and their claims of
23 constitutional violations are without merit.

IV. ARGUMENTS

A. Petitioner's Detention Is Lawful and Mandatory Under 8 U.S.C. § 1225(b)

Petitioner contends that his detention is governed by 8 U.S.C. § 1226 because removal proceedings remain pending. Dkt. 1, ¶ 37. That assertion is incorrect as a matter of law. Petitioner is an applicant for admission who has never been admitted or paroled into the United States. His detention is therefore mandated by 8 U.S.C. § 1225(b)(2)(A).

The Immigration and Nationality Act expressly defines Petitioner's status. Section 1225(a)(1) provides that "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). Petitioner entered the United States without inspection in 2019 and has never been admitted or paroled. His status as an applicant for admission has therefore remained unchanged throughout his time in the United States.

This status was re-confirmed in January 2026 when Canadian border authorities apprehended Petitioner attempting illegal entry into Canada and returned him to U.S. custody at the Blaine, Washington port of entry. At that moment, Petitioner was again processed by Customs and Border Protection as an applicant for admission. DHS issued a Form I-200 Warrant of Arrest on January 12, 2026, and placed him in mandatory detention. Because Petitioner was not "clearly and beyond a doubt entitled to be admitted," 8 U.S.C. § 1225(b)(2)(A) required that he "shall be detained for a proceeding under section 1229a." *Id.*

The Supreme Court has confirmed that 8 U.S.C. § 1225(b)(2)(A) mandates detention of applicants for admission pending removal proceedings and contains no provision for bond hearings. *Jennings*, 583 U.S. at 298. The Court explained that 8 U.S.C. § 1225(b) "authorizes the Government to detain certain aliens seeking admission into the country," while 8 U.S.C. § 1226

1 “authorizes the Government to detain certain aliens already in the country pending the outcome of
2 removal proceedings.” *Jennings*, 583 U.S. at 289–90. Petitioner falls into the former category.

3 The Fifth Circuit recently addressed—and rejected—the precise argument Petitioner
4 advances here. In *Buenrostro-Mendez*, 166 F.4th 494, the court held that noncitizens present in the
5 United States without having been admitted are “applicants for admission” under 8 U.S.C. §
6 1225(a)(1) and are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) during removal
7 proceedings, regardless of how long they have resided unlawfully in the United States. *Id.* at 505–
8 06. The court rejected the contention that such individuals are instead detained under 8 U.S.C. §
9 1226(a) and entitled to bond hearings, emphasizing that 8 U.S.C. § 1225(b)(2)(A) operates as a
10 catchall provision for unadmitted aliens without an exception for discretionary release on bond.
11 *Id.*, at 499.

12 Petitioner’s 2019 release on bond does not alter this analysis. That release occurred under
13 the then-prevailing agency interpretation and does not change Petitioner’s statutory classification
14 as an unadmitted applicant for admission. Upon his re-encounter and return at the Blaine port of
15 entry in 2026, DHS correctly reclassified his detention under 8 U.S.C. § 1225(b)(2)(A).
16 Petitioner’s prior bond order therefore has no continuing effect, and he has no statutory right to an
17 Immigration Judge bond hearing. Because Petitioner is detained under 8 U.S.C. § 1225(b)(2)(A),
18 his claim that 8 U.S.C. § 1226 governs is without merit. *See Mohan v. Noem*, 2:26-cv-00534-TMC,
19 2026 WL 764176 (W.D. Wash. Mar. 18, 2026).

20 This Court’s recent rulings in other 8 U.S.C. § 1225(b) habeas petitions do not compel a
21 different outcome here. In *Joshi v. Wamsley*, 2:26-cv-00148-TLF, 2026 WL 456822 (W.D. Wash.
22 Feb. 18, 2026), the Court granted a bond hearing after nearly sixteen months of detention under 8
23 U.S.C. § 1225(b), citing prolonged length and conditions of confinement under the *Banda* multi-
24 factor test. In *Kumar v. Noem*, 2:26-cv-00239-TLF, 2026 WL 411833 (W.D. Wash. Feb. 13, 2026),

1 the Court found 8 U.S.C. § 1226 applicable based on prior parole/OREC documents and internal
2 re-arrests at check-ins. In *Saelee v. Bondi*, 2:25-cv-02677-TLF, 2026 WL 221513 (W.D. Wash.
3 Jan. 28, 2026), the Court ordered release and a pre-deprivation hearing for future detention.

4 Those cases are materially distinguishable from the current Petitioner. Petitioner has been
5 detained for only approximately two months, far shorter than the prolonged periods at issue in
6 *Joshi v. Wamsley*. Unlike the petitioner in *Kumar*, Petitioner was not re-arrested at a routine check-
7 in or released on an OREC; he was physically returned by Canadian authorities at the Blaine port
8 of entry and processed as an applicant for admission. Petitioner's active attempt to flee to Canada
9 without inspection, combined with his recent instruction to withdraw his pending BIA appeal,
10 demonstrates both a heightened flight risk and imminent removal, factors absent or far less
11 pronounced in the cited cases. These distinctions, confirm that Petitioner's detention remains under
12 the mandatory provisions of 8 U.S.C. § 1225(b)(2)(A).

13 Instead, consider *Mohan v. Noem*, 2:26-cv-00534-TMC, decided by a different judge in
14 this District. In *Mohan* the Court upheld detention under 8 U.S.C. § 1225(b)(2)(A) for an
15 unadmitted applicant for admission who was re-encountered at a port of entry following an
16 attempted departure from the United States. The petitioner in that case had been returned to U.S.
17 custody after foreign authorities denied entry, was processed as an applicant for admission, and
18 had never been admitted or paroled. The Court rejected the argument that the pendency of removal
19 proceedings or prior administrative releases converted the detention authority to 8 U.S.C. §
20 1226(a), emphasizing the statutory definition of "applicant for admission" under 8 U.S.C. §
21 1225(a)(1) and the mandatory language of 8 U.S.C. § 1225(b)(2)(A).

22 **B. Petitioner's Detention Comports with Due Process**

23 Petitioner alleges a Fifth Amendment violation and irreparable injury because he has not
24 received a pre-redetention hearing at which the government must prove flight risk or danger by

1 clear and convincing evidence and demonstrate that no alternatives to detention suffice. No such
2 process is constitutionally required for the brief detention at issue here.

3 The Supreme Court has held that 8 U.S.C. § 1225(b) contains no implicit bond-hearing
4 requirement. *Jennings*, 583 U.S. 281, 302 (2018). Petitioner's detention is therefore statutorily
5 authorized. The constitutional inquiry turns on whether the detention has become unreasonably
6 prolonged. Courts in this District, including this Court, apply the multi-factor test first articulated
7 in *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019).

8 The *Banda* test considers six factors to determine whether detention under 8 U.S.C. §
9 1225(b) has become unreasonable: (1) the total length of detention to date; (2) the likely duration
10 of future detention; (3) the conditions of detention; (4) delays in the removal proceedings caused
11 by the detainee; (5) delays in the removal proceedings caused by the government; and (6) the
12 likelihood that the removal proceedings will result in a final order of removal. *Banda*, 385 F. Supp.
13 3d at 1117 (quoting *Jamal A. v. Whitaker*, 358 F. Supp. 3d 853, 859 (D. Minn. 2019)).

14 Application of these factors demonstrates that Petitioner's detention has not become
15 unreasonably prolonged and does not violate due process.

16 First, the total length of detention to date is only approximately two months. This Court
17 and others in the District have repeatedly held that detention of this limited duration does not
18 trigger constitutional concerns under *Banda*. See, e.g., *Maliwat v. Scott*, 2:25-cv-00788-TMC,
19 2025 WL 2256711, at *4 (W.D. Wash. Aug. 7, 2025) (noting that shorter periods weigh against
20 unreasonableness). By contrast, relief has been granted after many months or years. See *Joshi*, No.
21 2:2026-cv-00148 (detained for approximately 16 months).

22 Second, the likely duration of future detention is short. Petitioner has directed his attorney
23 to withdraw the pending BIA appeal. Once withdrawn, a final order of removal will issue promptly,
24 followed by removal to India. This factor strongly favors the government. See *Maliwat*, 2025 WL

1 2256711, at *5 (“Given that [the petitioner’s] case is still before the IJ, and no appeal has been
2 filed, the Court declines to speculate as to the likelihood of future detention” but notes imminent
3 finality weighs against relief).

4 Third, the conditions of detention at the NWIPC are standard for civil immigration
5 detention and do not rise to the level of punitive confinement that has influenced outcomes in
6 longer-detention cases.

7 Fourth and fifth, there are no material delays in the removal proceedings attributable to
8 either Petitioner or the Federal Respondents. The proceedings have followed a normal
9 administrative course since Petitioner’s 2021 removal order, and the current brief detention stems
10 directly from his own attempt to flee to Canada.

11 Sixth, the likelihood that the removal proceedings will result in a final order of removal is
12 extremely high. Petitioner has already been ordered removed, his appeal is being withdrawn at his
13 direction, and no other relief remains available. This factor weighs heavily against a finding of
14 unreasonableness.

15 On balance, all six *Banda* factors favor Federal Respondents. Petitioner’s detention has not
16 become unreasonably prolonged, and no due-process violation has occurred. *See Banda*, 385 F.
17 Supp. 3d at 1117 (requiring a fact-specific, case-by-case analysis rather than any bright-line rule).
18 Petitioner’s attempt to flee the United States by crossing into Canada without inspection, combined
19 with his recent instruction to withdraw his pending BIA appeal, further demonstrates both a strong
20 flight risk and that removal is imminent. These circumstances preclude any finding of irreparable
21 constitutional injury.

22 **C. Petitioner Is Not Entitled to the Requested Permanent Injunctive Relief**

23 Petitioner seeks two forms of permanent injunctive relief: (1) immediate release coupled
24 with a permanent bar on any future detention during removal proceedings absent written notice

1 and a clear-and-convincing-evidence hearing on flight risk, danger, and alternatives to detention;
2 and (2) a permanent prohibition on placement of a GPS ankle monitor upon any release. Dkt. 1,
3 Prayer for Relief. Neither is warranted.

4 Because Petitioner is lawfully detained under 8 U.S.C. § 1225(b)(2)(A), there is no basis
5 for immediate release or any injunction rewriting statutory procedures that Congress deliberately
6 omitted. *Jennings*, 583 U.S. at 298. Habeas relief is limited to Petitioner's individual custody; the
7 sweeping permanent injunction he requests exceeds the scope of this proceeding and would
8 conflict with the statutory scheme.

9 The request to enjoin GPS monitoring is likewise premature and unsupported. Any future
10 parole under 8 U.S.C. § 1182(d)(5)(A) remains within DHS's discretion, including the imposition
11 of appropriate conditions such as electronic monitoring. No statute or constitutional provision
12 entitles Petitioner to release free of such conditions. The requested injunction is overbroad and
13 must be denied.

14 V. CONCLUSION

15 For the foregoing reasons, Respondents respectfully request that the Court deny the Petition
16 for Writ of Habeas Corpus in its entirety.

17 DATED this 20th day of March, 2026.

18 Respectfully submitted,

19 s/ Lawrence Van Daley

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I certify that this memorandum contains 2,823
words, in compliance with the Local Civil Rules.