

DALJIT GHUMAN (PHV PENDING)
GHUMAN LAW GROUP
2450 VENTURE OAKS WAY STE 225,
SACRAMENTO, CA
PHN 916-692-9052
dolce@ghumanlawgroup.com
Attorneys for Petitioner

**UNITED STATES DISTRICT COURT
DISTRICT OF ARIZONA**

JITENDER JITENDER

[A# ,
Petitioner,

v.

ERIC ROKOSKY, Warden, Eloy
Detention Center. **TODD LYONS**, Acting
Director of United States Immigration and
Customs Enforcement; **PAMELA
BONDI**, Attorney General of the United
States, acting in their official capacities,
Respondents.

Case No.:

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Jitender Jitender ("Petitioner") brings this Habeas Petition respectfully seeking this Court to order his immediate release from custody as his arrest and current detention are unlawful and a violation the Due Process clause. Petitioner next asks the Court to order and declare that any future detention or arrest can only occur pursuant to the procedures and requirements of 8 U.S.C. 1226(a) and the U.S. Constitution.
2. Petitioner respectfully asks the Court to issue an order requiring Respondents to answer and show cause as to why the habeas should not be granted within 3 days.

1 There are no factual questions in dispute in this case. The legal issue has been
2 resolved repeatedly against the Respondents across the country. Respondents continue
3 to “benefit” from the unlawful detention of Petitioner and thousands of similarly
4 situated noncitizens.

- 5
6 3. Petitioner is an asylum seeker who fled India. He arrived in the U.S. on January 7,
7 2023. He entered the U.S. without visa or inspection and was encountered and
8 apprehended by Customs and Border Protection inside the United States.
- 9 4. He was released from custody under § 1226(a)(2)(B) (conditional parole) on or about
10 January 8, 2023 on his own recognizance.
- 11 5. Respondents released him on conditional parole at the same time initiating full (as
12 opposed to expedited) removal proceedings under § 1229a.
- 13
14 6. Petitioner applied for asylum with the immigration court, obtained lawful work
15 authorization, employment, drivers license, and followed all rules concerning removal
16 proceedings and presence in the United States.
- 17
18 7. Then, over three years later, Petitioner was arrested by Respondents and detained in
19 February of 2026.
- 20 8. There was no changed circumstances, no lawful basis for arrest, no advance notice,
21 and no consideration of whether Petitioner constitutes a flight risk or danger.
- 22
23 9. Respondents were aware, or should have been, that Petitioner is lawfully present in
24 the United States pursuant to parole and ongoing asylum application.
- 25 10. District Courts across the country have almost uniformly found rearrest and re-
26 detention of noncitizens, where no notice was provided and where there was no
27 change in material circumstances, to be unconstitutional and/or unlawful. This case is
28 no different. *See, e.g., Rosado v. Figueroa*, 2025 U.S. Dist. LEXIS 156344, *34-35 (D.

AZ August 11, 2025); *F.B. v. Noem*, No. CV-25-04271-PHX-JJT (JZB), 2025 U.S. Dist. LEXIS 259174, at *3 (D. Ariz. Dec. 4, 2025); *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 U.S. Dist. LEXIS 127539 at *4 (N.D. Cal. July 24, 2025); *M.K. v. Arteta*, 2025 U.S. Dist. LEXIS 265542, *11; (S.D.N.Y. Dec. 23, 2025)(noting over 300 rulings on this issue); *Alberto R.C. v. Murray*, No. 1:25-cv-01618-KES-SKO (HC), 2025 LX 513970 (E.D. Cal. Dec. 16, 2025); *Sharan S. v. Chestnut*, No. 1:25-cv-01427-KES-SKO (HC), 2025 LX 524863 (E.D. Cal. Nov. 12, 2025); *Gagandeep Singh v. Bowen*, No. 5:25-cv-03034-CAS-PD, 2025 LX 590018, at *9 (C.D. Cal. Nov. 21, 2025); *Estrada Elias v. Knight*, No. 1:25-CV-00594-BTW, 2025 WT 3228262, at *1 (D. Idaho Nov. 19, 2025) (collecting cases); see also *Tut v. Noem*, No. 5:25-cv-02701-DOC-AGR, 2025 LX 415266, at *9 n.1 (C.D. Cal. Oct. 16, 2025) (collecting cases in this district); *Doe v. Becerra*, No. 2:25-cv-647-DJC-DMC, 2025 U.S. Dist. LEXIS 37929 at *8 (E.D. Cal. Mar. 3, 2025) (granting temporary restraining order); *López v. Wofford*, No. 1:25-cv-01226-KES-SKO (HC), 2025 LX 491132, (E.D. Cal. Oct. 17, 2025)(requiring release of asylum seeker and a pre-detention bond hearing before re-arrest);

11. The few cases finding § 1225(b) to properly apply, including *Buenrostro-Mendez v. Bondi*, Nos. 25-20496, 25-40701, 2026 LX 16570 (5th Cir. Feb. 6, 2026), at *1 (5th Cir. Feb. 6, 2026), would seem all to be distinguishable in that they involve noncitizens who were *arrested but once* and do not present the due process or statutory questions involved in rearrest. See e.g. *Ordonez v. Frink*, No. 4:25-cv-06386, 2026 U.S. Dist. LEXIS 9827, at *3 (S.D. Tex. Jan. 20, 2026)(finding that 1225(b) applies to long time unlawfully present noncitizens who entered without inspection and were arrested by immigration officials only once while giving “respectful acknowledgement” “to the seven other district court judges in the Houston Division who [found that § 1226(a) governs].”)

12. Civil Immigration Detention is generally only permissible for only two reasons: to ensure a noncitizen’s appearance at immigration hearings and to prevent danger to the

community. Petitioner's rearrest, after having been found not to constitute a flight risk or danger, may not be re-detained in absence of changed circumstances relating to those factors.

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

14. The Constitution protects Petitioner—and every other person present in this country—from arbitrary arrest and detention and guarantees him due process of law. While the Executive Branch has broad power over the regulation of noncitizens, those powers are still “subject to important constitutional limitations.” Zadvydas v. Davis, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” Foucha v. Louisiana, 504 U.S. 71, 80 (1992).

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

II. JURISDICTION AND VENUE

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

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

1 district. Petitioner is detained at the Eloy, Arizona, Private, for profit, detention
2 facility which is located in this district.

3 4 **III. PARTIES**

5 18. Petitioner, Jitender Jitender, is a native and citizen of India. He was briefly arrested
6 and then released after entering the United States in January of 2023 without inspection.
7 He was then arrested over two years later and currently detained in the District of
8 Arizona.

9 19. Eric Rokosky is the Warden of the Eloy Detention facility and is Petitioner's
10 immediate custodian at the ICE prison camp where Petitioner is held. They are sued
11 in their official capacity.

12 20. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official
13 Performing the Duties of the Director of ICE, he is responsible for the administration
14 and enforcement of the immigration laws of the United States, routinely transacts
15 business in this District, and is legally responsible for pursuing any effort to detain and
16 remove the Petitioner. Respondent Lyons is sued in his official capacity.

17 21. Respondent Pamela Bondi is the Attorney General of the United States and the most
18 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
22 BIA. Respondent Bondi is sued in her official capacity.

23 24 **IV. EXHAUSTION**

25 22. There is no requirement to exhaust because no other forum exists in which Petitioner
26 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
28

1 the Administrative Procedure Act. Prudential exhaustion is not required here because
2 it would be futile, and Petitioner will “suffer irreparable harm if unable to secure
3 immediate judicial consideration of [their] claim.” *McCarthy v. Madigan*, 503 U.S.
4 140, 147 (1992). Any further exhaustion requirements would be unreasonable.

5 6 V. LEGAL BACKGROUND

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

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

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

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

23 26. Substantive due process requires that all forms of civil detention—including
24 immigration detention—bear a “reasonable relation” to a non-punitive purpose. *See*
25 *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). The Supreme Court has recognized
26 only two permissible non-punitive purposes for immigration detention: ensuring a
27 noncitizen’s appearance at immigration proceedings and preventing danger to the
28

community. *Vazquez Barrera v. Wolf*, 455 F. Supp. 3d 330, 338 (S.D. Tex. 2020) ("Where the government is holding the detainee in conditions that amount to punishment, and those conditions do not reasonably relate to a 'legitimate, non-punitive governmental objective,' such conditions violate the detainee's due process rights." (quoting *Cadena v. El Paso Cnty.*, 946 F.3d 717, 727 (5th Cir. 2020)); *Zadvydas*, 533 U.S. at 690–92; see also *Demore v. Kim*, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

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

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

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

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

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

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

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

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

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

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

1 34. Section 235 is titled "Inspection by immigration officers; expedited removal of
2 inadmissible arriving aliens; referral for hearing." The statute provides:

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

10 8 U.S.C. § 1225(a)(1), (b)(2)(A).

11 35. An applicant is seeking "admission," as that term is defined by § 1101(a)(13)(A), if he
12 is seeking entry "lawful entry . . . after inspection" and authorization.

13 36. An "[a]rriving alien means an applicant for admission coming or attempting to come
14 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. §
17 1101(a)(13)(A).

18 37. Noncitizens subject to mandatory detention under § 1225(b) may be released only if
19 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
23 WL 2829511, at *7 (E.D.N.Y. Oct. 6, 2025) (describing mandatory detention under §
24 1225(b)).

25 38. Section 1226 (INA 236), titled "Apprehension and detention of aliens," states:

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

1 States. Except as provided in subsection (c) and pending such decision, the
 2 Attorney General—

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

4 2) may release the alien on—

5 a) bond of at least \$1,500 with security approved by, and containing
 6 conditions prescribed by, the Attorney General; or

7 b) conditional parole . . . 8 U.S.C. § 1226(a). INA § 236 therefore
 8 creates a "discretionary detention framework" for noncitizens
 9 arrested and detained on a warrant issued by the Attorney
 10 General. *Gomes*, 2025 U.S. Dist. LEXIS 128085, 2025 WL
 11 1869299, at *2. It "authorizes the [g]overnment to detain certain
 12 aliens already in the country pending the outcome of removal
 13 proceedings." *Jennings*, 583 U.S. at 289.

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

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

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

26 42. Thus, § 1226(a) requires "an individualized bond determination before a noncitizen
 27 may be taken into custody." *Hyppolite*, 2025 U.S. Dist. LEXIS 197628, 2025 WL
 28

2829511, at *8 (citation omitted); *Perez v. Albarran*, No. 1:25-cv-01540, 2025 U.S. Dist. LEXIS 224966, at *7 (E.D. Cal. Nov. 14, 2025); *Salcedo Aceros v. Kaiser*, No. 25-cv-06924-EMC, 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503, at *1 (N.D. Cal. Sept. 12, 2025) (citing *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017)).

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*

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 nom. *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (describing prior
2 practice).

3 **B. BIA decision aligns Agency precedent with novel and expanded use of**
4 **detention to all persons present without having been inspected;**
5 **Respondents increase pretextual rearrests.**
6

7 46. For decades, noncitizens who entered without inspection, were arrested in the United
8 States and were placed into removal proceedings were generally subject to
9 discretionary detention under 8 U.S.C. § 1226(a) (and its predecessor statute). Under
10 that framework, they could be considered for release on bond or conditional parole by
11 the Department of Homeland Security (“DHS”) and receive a bond hearing in
12 immigration court before an IJ who could order release if found not to pose an undue
13 flight risk or danger that justified continued detention.

14 47. The government upended this long-held policy and understanding of the law in 2025.
15

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

21 49. As a result, DHS attorneys started arguing, and some IJs started finding, that such
22 individuals were not eligible for bond hearings in immigration court.
23

24 50. Then, on September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a
25 precedential decision, binding on all IJs, holding that an IJ had no authority to
26 consider bond requests for any person who entered the United States without
27 inspection. See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
28

1 51. Respondents have continued to rearrest and detain noncitizens across the country
2 who entered the U.S. without inspection even where the noncitizen was previously
3 released from custody under INA § 236.

4 52. Respondents often cite to de minimis alleged violations of conditions of prior release
5 as pretext for rearrest.
6

7 53. Numerous sources have reported that the alleged violations are not supported in
8 Respondents' records keeping systems or that noncitizens report the alleged violations
9 are simply not accurate. See e.g. *Ramazan M. v. Andrews*, No. 1:25-cv-01356-KES-
10 SKO (HC), 2025 WL 3145562, at *6 (E.D. Cal. Nov. 10, 2025) (ordering pre-
11 deprivation hearing where Respondents alleged check-in and other electronic
12 monitoring violations, because "[w]hile respondents argue that petitioner is a flight
13 risk, the purpose of a bond hearing is for a neutral decisionmaker to consider and
14 evaluate such an argument to determine whether it is consistent with the facts and to
15 ensure that noncitizens like petitioner are not deprived of their liberty without
16 justification"), and at *E.A. T.B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130,
17 at *4 (W.D. Wash. Aug. 19, 2025) (ordering immediate release of petitioner and
18 finding that it does not "necessarily follow that Petitioner can be detained for [release
19 conditions] violations without a hearing. That the Government may believe it has a
20 valid reason to detain petitioner does not eliminate its obligation to effectuate the
21 detention in a manner that comports with due process.").

22 54. Judges have also found the supposed violations "negligible" or been skeptical of
23 existence of purported violations. See e.g. *Alas v. Albarran*, 2025 U.S. Dist. LEXIS
24 207060 *2 FN1(N.D. Cal. Oct. 15, 2025).
25

26 **C. Petitioner's unlawful arrest and detention**

27 55. Petitioner is a citizen and native of India.

28 56. Petitioner entered the United States without inspection on January 7, 2023.

1 57. Petitioner was arrested by Customs Border Protection inside the United States.

2 58. Petitioner was then released on January 8, 2023, on his own recognizance under 8
3 U.S.C. § 1226(a)(2)(B) (conditional parole)

4 59. Petitioner was not inspected.

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

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

8 62. Petitioner thereafter filed an application for asylum with the immigration court.

9 63. Petitioner never missed any immigration court hearings or required appointments
10 with Immigration Customs Enforcement.

11 64. Petitioner was rearrested on or about February 17, 2026.

12 65. Respondents were aware, at the time of arrest, that Petitioner is lawfully present in the
13 United States.

14 66. Respondents were aware that Petitioner had an application for asylum pending with
15 the immigration court.

16 67. Respondents were aware that Petitioner had been previously paroled under §
17 1226(a)(2)(B) and that his parole had not been terminated or revoked.

18 68. Respondents did not make any individualized determination that Petitioner posed a
19 flight risk or danger to the community prior to rearrest or continued detention
20 determination.

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

22 70. Petitioner is not subject to final order of removal.

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

25 72. Petitioner has never been determined to be a flight risk or danger to the community;
26 his detention is not related to either of the permissible justifications for civil
27 immigration detention. His detention does not further any legitimate government
28 interest.

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

- 1 73. Petitioner is unlikely to receive a fair bond hearing before an immigration judge.
- 2 74. Over 100 judges have been fired, resigned, or retired in the wake of unprecedented
- 3 interference with their independence and quasi-judicial function.
- 4 75. Respondents have issued directives to immigration judges ordering that most bond
- 5 requests should be denied on 'flight-risk' grounds.
- 6 76. Even where bond hearings are granted, they are conducted in rushed and grossly unfair
- 7 settings.
- 8 77. Noncitizens often have difficulties hearing judges or translators through video conferences
- 9 from detention centers, have limited access to counsel to prepare, and hearings are
- 10 conducted rapidly without full consideration of evidence or testimony.
- 11 78. Immigration Judge's often give full weight to uncorroborated ICE/CBP reports,
- 12 including Form I-213, even where it contains obvious inaccuracies and even in light
- 13 of growing reports of ICE and CBP fabrications in court testimony, reports, and other
- 14 settings.
- 15 79. Immigration Judges often do not even permit testimony from noncitizens or their
- 16 witnesses before entering a judgment.
- 17 80. Immigration Judges do not have time to review filings submitted in support of request for
- 18 release on bond prior to hearings.
- 19 81. Immigration Judges are not given the time or resources to adequately conduct fair bond or
- 20 merits hearings in the detained or non-detained setting.
- 21 82. Immigration Judges often cite little or no reasoning in determining that noncitizens are a
- 22 flight-risk.
- 23 83. Appeals from Bond decisions take more than 7 months.
- 24 84. The Board has yet to publish a decision reversing a bond denial despite publishing
- 25 multiple decisions reversing grants of bond through the decisions contained no new legal
- 26 precedent or issues.
- 27 85. Respondents are in possession of data demonstrating drastic reduction in bond approval
- 28 rate over the last 12 months despite the fact that bond decision factors have not changed.
86. Respondents have issued coordinated directives to their employees to designed to

1 encourage and facilitate denial of bond in all cases.

2 87. Judges who not have complied with these directives have been fired or pressured to resign
3 or face other disciplinary actions.

4 88. Even where bond is granted, Respondents often do not comply with the order, refuse to
5 accept bond payment, do not timely release the detainee, release the detainee on
6 conditions far more restrictive than authorized, or otherwise seek to unlawfully maintain
7 actual or constructive custody of the noncitizen.

8 89. Counsel is unaware of any bond denial being reversed by the BIA in the last 13 months,
9 despite conversing with scores of practitioners regularly about this and related issues.

10 90. Respondents maintain statistics and data as to each immigration judge and as to bond
11 grant rates by judge, by Court, and nationwide.

12 **E. Petitioner is suffering irreparable and ongoing harm as a result of**
13 **unlawful detention**

14
15 91. Petitioner is being deprived of his liberty without lawful basis or permissible
16 justification. Petitioner is unable to fully assist counsel to defend him from removal
17 from the United States or in his ongoing claim for asylum protection.

18 92. Petitioner is unable to work, though holding employment authorization, and is
19 struggling to support himself, his family, and to continue to afford to pay legal fees for
20 attorneys to assist in his case.

21
22 **VII. CLAIMS FOR RELIEF**

23 **FIRST CLAIM FOR RELIEF**

24 Violation of the Fifth Amendment to the United States Constitution

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

26
27 93. Petitioner repeats and realleges the allegations contained in the preceding paragraphs
28 of this Petition as if fully set forth herein.

1 94. The Due Process Clause of the Fifth Amendment protects all “person[s]” from
 2 deprivation of liberty “without due process of law.” U.S. Const. amend. V. “Freedom
 3 from imprisonment—from government custody, detention, or other forms of physical
 4 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
 5 Zadvydas, 533 U.S. at 690.

6 95. Immigration detention is constitutionally permissible only when it furthers the
 7 government’s legitimate goals of ensuring the noncitizen’s appearance during removal
 8 proceedings and preventing danger to the community. *See id.*

9 96. Petitioner is not a flight risk or danger to the community. Respondents have already
 10 made this determination and nothing has changed. Respondents’ detention of Petitioner
 11 is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in
 12 violation of the Due Process Clause of the Fifth Amendment.
 13

14 97. Moreover, Petitioner’s detention is punitive as it bears no “reasonable relation” to any
 15 legitimate government purpose. *Id.* (finding immigration detention is civil and thus
 16 ostensibly “nonpunitive in purpose and effect”). Here, the purpose of Petitioner’s
 17 detention appears to be “not to facilitate deportation, or to protect against risk of flight
 18 or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-
 19 imposed DHS quotas and transfer immigration court venue away from an IJ who
 20 refused to facilitate DHS’s new expedited removal scheme. *Demore*, 538 U.S. at 532–
 21 33 (Kennedy, J., concurring);
 22

23 **SECOND CLAIM FOR RELIEF**

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

25 **(Procedural Due Process—Detention without predeprivation hearing or notice)**

26 98. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs
 27 of this Petition as if fully set forth herein.
 28

99. Petitioner has a strong liberty interest under the Due Process Clause in not being re-incarcerated after prior release. *Young v. Harper*, 520 U.S. 143, 146–47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781–82 (1973); *Morrissey v. Brewer*, 408 U.S. 471, 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an II’s bond determination); *Nadia Cristina DA Rocha Rosado v. Fred Figueroa, Warden, Eloy Det. Ctr.*, 2025 U.S. Dist. LEXIS 156344, *35.

100. Accordingly, “[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government’s asserted justification for physical confinement outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Hernandez*, 872 F.3d at 990 (cleaned up); *Zinerman*, 494 U.S. at 127 (Generally, “the Constitution requires some kind of a hearing before the State deprives a person of liberty or property.”). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that noncitizens pose a flight risk or danger to the community. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also Martinez v. Clark*, 124 F.4th 775, 785, 786 (9th Cir. 2024).

101. Petitioner’s re-detention without termination or revocation of conditional parole, without lawful basis for arrest, and without pre-detention hearing or exigent circumstances violated his liberty interest under the Due Process clause.

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

THIRD CLAIM FOR RELIEF

Violation of the Immigration & Nationality Act

103. Petitioner repeats and re-alleges the allegations contained in the preceding

1 paragraphs of this Petition as if fully set forth herein.

2
3 104. Respondent's claim that Petitioner is detained pursuant to 8 U.S.C 1225(b).

4 105. Petitioner, who was previously arrested and released under § 1226(a)(2)(B), and
5 then rearrested years later, is not properly subject to § 1225(b); *no statutory*
6 *mechanism exists to switch from 1226(a) to 1225(b).*

7
8 106. Respondents may only detain noncitizens pursuant to specific authority under
9 U.S. law.

10 107. No statutory authority exists authorizing Respondent's to detain Petitioner in
11 absence of permissible basis and predeprivation hearing. Petitioner's continued
12 detention is therefore unlawful.

13 **FOURTH CLAIM FOR RELIEF**

14 **Fourth Amendment violation**

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

18
19 109. Respondents had no probable cause or lawful basis to arrest Petitioner.

20 110. Respondents did not have a warrant at the time of arrest.

21
22 111. Petitioner was lawfully present in the United States at the time of arrest.

23 112. The arrest, without statutory basis or lawful authority violates Petitioner's rights
24 under the 4th Amendment to the Constitution.

25 **VIII. VERIFICATION OF PETITION**

26
27 113. I, Daljit Ghuman, hereby swear and affirm that the contents of this petition are
28 true and correct to the best of my knowledge and understanding, based on direct

1 discussion with Petitioner and review portions of his "A-file" and Electronic Record
2 of Proceedings ("EROP") maintained by EOIR's Immigration Court, subject to
3 penalty of perjury.

4
5 **IX. PRAYER FOR RELIEF**

6 Petitioner respectfully requests that this Court:

- 7 1. Assume jurisdiction over this matter;
- 8 2. Issue a writ of habeas corpus ordering Respondents to immediately release
9 Petitioner from custody;
- 10 3. Declare that Petitioner's arrest and detention violates the Due Process
11 Clause of the Fifth Amendment, the Fourth Amendment, and the
12 Immigration and Nationality Act.
- 13 4. Enjoin Respondents from detaining Petitioner under § 1226(a) or § 1225(b)
14 unless his detention is ordered at a custody hearing before a neutral arbiter in
15 which the government bears the burden of proving, by clear and convincing
16 evidence, that Petitioner is a flight risk or danger to the community;
- 17 5. Order that Respondents may not arrest Petitioner while INA § 1229a
18 proceedings are ongoing, including during any direct appeal from dismissal of
19 proceedings by the Immigration Judge absent a change in material circumstances;
- 20 6. Grant such further relief as the Court deems just and proper.

21 Respectfully submitted this 10th Day of March 2026,

22 /s/Daljit Ghuman
23 **DALJIT GHUMAN**
24 **GHUMAN LAW GROUP**
25 **2450 VENTURE OAKS WAY STE 225,**
26 **SACRAMENTO, CA**
27 **PHN 916-692-9052**
28 **dolce@ghumanlawgroup.com**

Attorneys for Petition