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ATTORNEY FOR PETITIONER

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS.  
ABILENE DIVISION

**Sikanderbeer Singh**

Petitioner,

**Robert Cerna**, Field Office Director of  
Enforcement and Removal Operations, ERO  
Dallas Field Office, Immigration and Customs  
Enforcement;; **Kristi Noem**, Secretary, U.S.  
Department of Homeland Security; **Todd M.  
Lyons**, Acting Director of the United States  
Immigration and Customs Enforcement;  
**Pamela Bondi**, U.S. Attorney General;  
Executive Office for Immigration Review;  
**Marcello Villegas**, Warden, Bluebonnet  
Detention Center, TX.

Respondents,

Case No.: 1:26-cv-00110

Agency No. 

**PETITION FOR WRIT OF HABEAS**

**CORPUS PURSUANT TO 28 U.S.C. § 2241**

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## INTRODUCTION

1. Petitioner, Sikanderbeer Singh ("Mr. Singh"), by and through undersigned counsel, Preetkamal Singh, Esq., respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his ongoing and unlawful civil immigration detention by the United States Department of Homeland Security and its agents. Petitioner is currently confined at the Bluebonnet Detention Center in Anson, Texas, in custody of the facility's Warden.
2. On or about January 07, 2026, Immigration and Customs Enforcement ("ICE") officers took the Petitioner into custody from a traffic stop on IH-40 West of Vega, TX. He notified the ICE officers that he has a pending I-589 Asylum case with the Immigration court. Even after being compliant, he was still arrested and sent to the ICE detention center where he currently resides.
3. On July 8, 2025, DHS issued an internal Interim Guidance ("Policy") that took the baseless position that—contrary to statutory principles and governing case law—noncitizens like Petitioner who entered the United States without permission or parole are subject to mandatory detention under 8 U.S.C. § 1225(b) instead of discretionary detention under section 1226(a). On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) that sided with DHS' position.
4. Petitioner seeks immediate release from this court. As referred to above, Immigration Judges are relying on the *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), to hold that petitioners are ineligible for bond, despite evidence disputing the underlying factual assumptions regarding their apprehension and processing. Futility is an exception to the



prudential exhaustion requirement under the law. Petitioner has been subject to *Matter of Yajure Hurtado* where the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. Petitioner has also been subjected to the aforementioned Policy instructing all ICE employees to consider anyone arrested within the United States and charged with being inadmissible under § 1182(a)(6)(A)(i) to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention. The Policy itself states that it was issued “in coordination with the Department of Justice (DOJ).” Given these facts, any further request to an Immigration Judge for a bond hearing, as well as any subsequent appeals to the Board to resolve this matter, would be futile and would only lead to further delays. Indeed, where a noncitizen has been subjected to prolonged detention, due process requires that Department of Homeland Security (“DHS”) bear the burden of proof at the bond hearing. *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011). A bond hearing violates its fundamental purpose when the Immigration Judge does not assess the totality of the circumstances and fails to hold the DHS to its established burden of proof. The Court has made clear that due process requires a meaningful bond hearing at which the Immigration Judge conducts an individualized assessment of the totality of the circumstances. Otherwise, such hearings become merely illusory and fall short of the procedural due process required under *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). The record reflects that, under present conditions, many similarly situated noncitizens have either received no bond hearings or have received hearing that consist of a cursory review and result in immediate denial of release.



5. Petitioner now faces potentially indefinite detention, and such re-detention violates the *inter alia*, the Due Process Clause of the Fifth Amendment. Petitioner's re-detention violates his procedural due process rights and the Immigration and Nationality Act ("INA"). DHS' Policy has upended decades of DHS' own interpretation of bond eligibility under sections 1226(a) and 1225(b). Nearly every district court that has addressed this issue has rejected DHS' unfounded position and granted habeas relief.
6. However on February 6, 2026, the United States Court of Appeals for the Fifth Circuit endorsed the DHS's statutory interpretation in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), foreclosing purely statutory claims to bond hearings under § 1226(a) within this Circuit. However, neither *Yajure Hurtado* nor *Buenrostro-Mendez* addressed—much less resolved—the independent constitutional, administrative-law, equal-protection, Suspension Clause, or *Accardi*-based limitations on prolonged civil detention without individualized review. Thus, even if the Petitioner submits to this Court's interpretation of the said statute, that does not preclude relief being granted on the aforementioned grounds.

#### **FACTUAL BACKGROUND**

7. Petitioner, Mr. Singh is a 27 year-old male and a citizen and national of India. He fled the political persecution in India and made the dangerous journey to the United States to seek safety and protection. Petitioner does not have any criminal convictions, has no history of violence or dangerous behavior, and has consistently demonstrated compliance with immigration authorities throughout his detention.
8. Petitioner last entered the United States at or near Lukeville, AZ on or about May 04, 2023. After entry, he was encountered by U.S. Border Patrol. After being processed, Petitioner



was placed in immigration proceedings under Section 240 of the Immigration and Nationality Act and was released under an “Order of Release on Recognizance” on or about May 06, 2023 by DHS for the purpose of continuing his removal proceedings. (See attached exhibit 1: ICE release documents, *Order of Release on Recognizance*). Since his release, the Petitioner has fulfilled the conditions of his release, filed an application for asylum and withholding of removal and protection under the Convention Against Torture before the Immigration Court based on political persecution.

9. Despite Petitioner’s continued compliance with all release conditions, including attendance at immigration court hearings, DHS abruptly re-detained Petitioner without notice of any violation or lawful justification for detention.
10. Prior to re-detaining the Petitioner, Respondents did not provide any written notice explaining the basis for the revocation of his earlier release. Likewise, Respondents did not assess whether the Petitioner presented a flight risk or danger to the community prior to his re-arrest. Nor did Respondents provide a hearing before a neutral decisionmaker, where ICE was required to justify the basis for re-detention or to explain why the Petitioner is now a flight risk or danger to the community. As this Court has held in multiple cases, due process demands a hearing prior to the government’s decision to terminate a person’s liberty.
11. Petitioner was taken into the custody of U.S. Immigration and Customs Enforcement and is currently detained at the Bluebonnet Detention Center in Anson, Texas.
12. Petitioner now faces prolonged and potentially indefinite detention without any mechanism for individualized custody review. He remains confined under restrictive, penal-like



conditions, despite criminal convictions, no history of absconding, and a viable application for humanitarian protection.

13. Petitioner's ongoing detention and without any opportunity for an individualized determination of his eligibility for release violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and fundamental constitutional protections against arbitrary and indefinite detention. Petitioner therefore seeks immediate judicial intervention to secure his release .

#### **JURISDICTION AND VENUE**

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
15. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause)
16. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28U.S.C. § 1651.
17. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Soberanes v. Comfort*, 388 F.3d1305, 1310 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through habeas.”).



18. No petition for the writ of habeas corpus has previously been filed in any court regarding Petitioner.
19. Venue is proper because Petitioner is detained at Bluebonnet Detention Center in Anson, Texas, which is within the jurisdiction of this District. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States. *See* 28 U.S.C. §§ 1391(b) and (e)(1) *see also United States v. Scott*, 803 F.2d 1095, 1096 (10th Cir. 1986) (“A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined.”).

#### PARTIES

20. Petitioner, **Sikanderbeer Singh** is a citizen and national of India who is currently detained at the Bluebonnet Detention Center in Anson, Texas. He is held in the custody of the United States Department of Homeland Security and brings this habeas petition to challenge the legality of her ongoing civil immigration detention.
21. Respondent, **Kristi Noem** is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (“DHS”). In this capacity, Respondent is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention and custody. Respondent is a legal custodian of Petitioner.
22. Respondent, **Pamela Bondi** is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent is a legal custodian of Petitioner.



23. Respondent, **Todd Lyons** is sued in his official capacity as the Acting Director of the U.S. Immigration and Customs Enforcement. Respondent is a legal custodian of Petitioner and has authority to release him.
24. Respondent, **Robert Cerna**, Field Office Director of Enforcement and Removal Operations, ERO Dallas Field Office, issued in his official capacity. These official exercises supervisory responsibility over immigration functions relevant to Petitioner's detention and the processing of matters that affect her custody and immigration status.
25. Respondent, **Marcello Villegas**, Warden of the Bluebonnet Detention Center in Anson, Texas, is Petitioner's immediate custodian. The Warden maintains direct physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement ("ICE") to detain noncitizens and is a legal custodian of Petitioner. Respondent is a legal custodian of Petitioner

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

26. Petitioner has no administrative remedies to exhaust. Petitioner's continued detention in ICE custody cannot be challenged by way of further bond proceedings before the Immigration Judge as such judges continue to rely on *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025) as well as *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Futility is an exception to the prudential exhaustion requirement. Therefore, a writ of habeas corpus is the sole avenue to vindicate his constitutional, statutory, and regulatory rights and restore his liberty.

#### **LEGAL FRAMEWORK**

27. The Immigration and Nationality Act ("INA") establishes multiple detention authorities governing noncitizens in removal proceedings, depending on



procedural posture and statutory classification. These detention provisions operate against the backdrop of constitutional limitations on civil confinement and long-recognized principles of individualized custody review.

28. First, INA § 236(a), 8 U.S.C. § 1226(a), authorizes the discretionary detention of noncitizens placed in full removal proceedings under INA § 240, 8 U.S.C. § 1229a. Historically, individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
29. Second, INA § 235(b), 8 U.S.C. § 1225(b), governs the detention of noncitizens classified as “applicants for admission,” including individuals subject to expedited removal under § 1225(b)(1) and those referred to full removal proceedings under § 1225(b)(2). Section 1225(b)(2)(A) provides that certain applicants for admission “shall be detained” pending removal proceedings, subject to limited parole authority.
30. Finally, the Act also provides for the detention of noncitizens who have previously been ordered removed, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).
31. The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119-1, 139 Stat. 3 (2025). Congress enacted these provisions



against a longstanding background principle that civil immigration detention must remain tied to legitimate regulatory purposes and must comport with constitutional due-process requirements.

32. Following enactment of the IIRIRA, the Executive Office of Immigration Review drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under section 1225 and that they were instead detained under section 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also consistent with the practice prior the enactment of the IIRIRA, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that section 1226(a) simply “restates” the detention authority previously found at section 1252(a)).
33. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement (“ICE”) stating that “[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department’s legal interpretation while additional operational guidance is developed.”



34. As a result, DHS now considers *all* noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including longtime U.S. residents to be subject to mandatory detention under section § 1225(b) and ineligible for release on bond. Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)].” *Id.*
35. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), IJs lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission.
36. On February 6, 2026, the United States Court of Appeals for the Fifth Circuit endorsed that statutory interpretation in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), foreclosing purely statutory claims to bond hearings under § 1226(a) within this Circuit. The panel held that noncitizens who are present in the United States without having been admitted or paroled—including those apprehended years after entry—are “applicants for admission” under 8 U.S.C. § 1225(a)(1) and are subject to mandatory detention under § 1225(b)(2)(A) pending removal proceedings under § 1229a. The panel further held that such individuals are not eligible for discretionary release on bond under § 1226(a) and that immigration judges lack jurisdiction to conduct bond hearings in their cases. The panel endorsed the Board of Immigration Appeals’ precedential



decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and reversed two district court orders that had granted habeas relief on statutory ground.

37. While the Petitioner recognizes that this Court is bound by the Fifth Circuit's holding on the purely statutory question of whether § 1225(b)(2)(A) or § 1226(a) governs Petitioner's detention, he asserts that neither *Yajure Hurtado* nor *Buenrostro-Mendez* addressed—much less resolved—the independent constitutional, administrative-law, equal-protection, Suspension Clause, or *Accardi*-based limitations on prolonged civil detention without individualized review. As the Supreme Court made clear in *Jennings v. Rodriguez*, 583 U.S. 281, 302–03 (2018), the absence of a statutory bond entitlement does not eliminate constitutional constraints on detention or foreclose habeas review.
38. Accordingly, even where § 1225(b)(2)(A) is assumed to govern detention, continued civil confinement remains subject to the Due Process Clause, the Administrative Procedure Act, the Suspension Clause, and binding agency regulations. Detention that becomes prolonged, indefinite, arbitrary, or wholly insulated from meaningful review exceeds the lawful authority conferred by Congress and violates fundamental constitutional guarantees. The Fifth Circuit's February 6, 2026 decision in *Buenrostro-Mendez v. Bondi* forecloses petitioner's purely statutory claim to a bond hearing under 8 U.S.C. § 1226(a) but does not preclude habeas relief on constitutional and other grounds
39. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), similarly held that there is no statutory right to periodic bond hearings under §§ 1225(b), 1226(a), or



1226(c), but it explicitly remanded for the lower courts to consider constitutional arguments in the first instance. *Id.* at 302–03. The Fifth Circuit's statutory holding in *Buenrostro-Mendez* leaves those constitutional questions open, just as *Jennings* did.

40. Thus, Habeas jurisdiction remains available to test the legality of detention and the constitutionality of detention procedures; § 1226(e) does not bar review of legal and constitutional claims.
41. Nothing in *Buenrostro-Mendez* strips this Court of jurisdiction under 28 U.S.C. § 2241 to adjudicate constitutional challenges to immigration detention or to review whether the Executive's custody scheme violates governing law. *Jennings* itself distinguishes unreviewable discretionary custody judgments from reviewable questions of law and constitutional claims. Likewise, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), both proceeded through § 2241 habeas and underscore that civil immigration detention must remain tethered to lawful purposes and must satisfy due process.
42. Petitioner does not ask this Court to second-guess a discretionary bond determination. He challenges DHS's asserted authority to hold him in prolonged civil detention without any meaningful individualized custody determination before his arrest and he challenges the lawfulness of the government's detention process as applied to him.

**DUE PROCESS VIOLATION FROM PROLONGED OR INDEFINITE  
DETENTION WITHOUT INDIVIDUALIZED HEARING**

43. Even accepting the Fifth Circuit's interpretation that § 1225(b)(2)(A) mandates



detention and provides no statutory bond hearing, Petitioner's ongoing and potentially indefinite detention violates the Due Process Clause of the Fifth Amendment as applied to him.

44. Civil immigration detention is permissible only to the extent it serves the statutory purposes of ensuring appearance at proceedings and protecting the community from danger *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 527–28 (2003). When detention becomes prolonged or indefinite and is no longer tied to those purposes, it becomes punitive and unconstitutional. *Id.*
45. Petitioner's detention is currently approximately more than two months. Absent any mechanism for individualized review, Petitioner faces a substantial risk of indefinite detention under penal conditions despite having no criminal convictions, no disciplinary infractions, demonstrated compliance, and no individualized finding of danger or flight risk.
46. Numerous district courts, including within the Fifth Circuit, have held post-*Jennings* that due process requires an individualized bond hearing, with the government bearing the burden of proof by clear and convincing evidence, when mandatory detention under §§ 1225(b) or 1226(c) becomes prolonged. While the Fifth Circuit has not adopted a bright-line rule, district courts in this Circuit and others commonly find six months presumptively unreasonable absent individualized justification. *See*, e.g., practice advisories and district court orders cited in post-*Jennings* litigation, collecting cases requiring hearings after 6–12 months under analogous mandatory detention provisions.
47. The constitutional concerns are heightened here because the government's new



interpretation—upheld in *Buenrostro-Mendez*—extends mandatory detention without bond or hearing to noncitizens who have lived openly in the United States for significant periods, in the present instance for over four years. Traditional “arriving alien” detention under § 1225(b) historically applied to those apprehended at or near the border or port of entry, where detention was typically brief pending expedited processing. Extending it to individuals in full § 1229a proceedings with meritorious relief claims raises far graver liberty interests than the brief detention upheld in *Demore* or contemplated for true arriving aliens.

48. Petitioner is a native and citizen of India with no criminal convictions, no history of violence, and strong humanitarian claims. Continued categorical detention without any hearing—where the government never had to justify his confinement by evidence—serves no legitimate purpose and is punitive in effect.

**PRESERVATION OF STATUTORY ARGUMENT FOR *EN BANC* OR  
SUPREME COURT REVIEW**

49. In order to preserve the issue for possible *en banc* review or *certiorari*, Petitioner respectfully submits that the panel in *Buenrostro-Mendez* erred in its statutory interpretation for the following reasons, which align with the overwhelming majority of district court decisions nationwide prior to February 6, 2026:
- a. The phrase “an alien seeking admission” in § 1225(b)(2)(A) is in the present tense and applies only to those actively seeking admission at the time of apprehension (e.g., at a port of entry or in active inspection), not to individuals living quietly in the interior years later.
  - b. The government's and panel's reading renders § 1226(a)'s bond provisions



largely superfluous for the vast majority of noncitizens in removal proceedings who entered without inspection.

- c. It contradicts three decades of consistent administrative practice (1997–2025), including EOIR regulations and DHS guidance treating such individuals as detained under § 1226(a).
- d. It reverses the congressional intent behind IIRIRA, which sought to eliminate incentives for evading inspection but did not contemplate mandatory indefinite detention for long-present residents.
- e. Over 350 district courts nationwide rejected the government's position in 2025–early 2026 habeas cases, finding the text, structure, and history compel application of § 1226(a).

50. These preserved arguments do not request this Court to disregard binding Fifth Circuit precedent on the statutory issue; they are included solely to preserve further review.

51. The APA claim remains viable because DHS's abrupt 2025 policy reversal—announced via internal memo without notice-and-comment or reasoned explanation for departing from 28 years of practice—is arbitrary and capricious under 5 U.S.C. § 706(2)(A). *Buenrostro-Mendez* did not address this administrative law challenge.

52. As *Buenrostro-Mendez* resolved only the statutory interpretation question, it does not preclude (a) equal protection challenges to arbitrary detention classifications and disparate treatment without a rational basis, (b) Suspension Clause claims where the government's scheme eliminates any meaningful mechanism—other than



habeas—to test the legality of detention, and (c) Accardi claims requiring the agency to follow its own binding arrest and processing regulations. *See* 8 C.F.R. § 287.8(c)(2)(i)–(ii).

53. For all these reasons, this Court should grant *habeas* relief on non-statutory grounds by ordering Respondents to order his immediate release under reasonable conditions of supervision or, in the alternative, provide Petitioner a prompt, individualized bond hearing before a neutral decisionmaker with the government bearing the burden to justify continued detention by clear and convincing evidence.

**THE FIFTH CIRCUIT PANEL'S DECISION IN *BUENROSTRO-MENDEZ v. BONDI* IS INCONSISTENT WITH *LOPER BRIGHT ENTERPRISES v. RAIMONDO***

54. To further preserve the statutory issue for potential *en banc* review by the Fifth Circuit or *certiorari* to the Supreme Court, Petitioner respectfully submits that the panel's decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026), is inconsistent with the Supreme Court's controlling precedent in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), which overruled *Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984).
55. In *Loper Bright*, the Supreme Court held that courts “must exercise their independent judgment in deciding whether an agency has acted within its statutory authority” and may no longer defer to an agency's interpretation of an ambiguous statute under *Chevron*. *Id.* at 374. While agencies' views may still be entitled to respectful consideration under *Skidmore v. Swift & Co.*, 323 U.S. 134 (1944)—with



persuasive force depending on factors such as the thoroughness of the agency's reasoning, the consistency of its position over time, and its expertise—courts must independently determine the best reading of the statute using traditional tools of statutory construction. *Loper Bright*, 603 U.S. at 402.

56. The panel in *Buenrostro-Mendez* did not adhere to this mandate. Although the panel conducted a textual analysis, its reasoning effectively accorded dispositive weight to the Board of Immigration Appeals' recent interpretation in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)—a 2025 decision that abruptly reversed nearly three decades of consistent administrative practice (1997–2025) treating unadmitted noncitizens apprehended in the interior as subject to discretionary detention and bond eligibility under § 1226(a). The panel adopted the BIA's new position wholesale, without acknowledging or applying the *Skidmore* factors that, post-*Loper Bright*, should have diminished the persuasive value of an inconsistent, late-breaking agency reversal.
57. Under *Skidmore* and *Loper Bright*, longstanding agency interpretations are entitled to greater weight precisely because consistency and reliance interests bolster their persuasiveness. Here, the opposite occurred: for 28 years, multiple administrations, EOIR regulations, and DHS guidance uniformly applied § 1226(a) to individuals in Petitioner's position. *See, e.g.,* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). The BIA's 2025 reversal—prompted by a policy shift announced in a July 2025 DHS memo—lacks the



hallmarks of thorough, consistent reasoning that could earn persuasive force. Yet the panel endorsed it without critically examining this inconsistency or independently weighing the superior reading supported by historical practice, statutory structure, and the overwhelming majority of pre-2026 district court decisions (over 350 nationwide).

58. This approach mirrors the deference prohibited by *Loper Bright*, as the panel appeared to treat the agency's new litigating position and BIA precedent as authoritative rather than exercising fully independent judgment. The panel dismissed the decades of contrary practice as irrelevant (“The text says what it says, regardless of the decisions of prior administrations”), effectively insulating the agency's reversal from meaningful judicial scrutiny—the very dynamic *Loper Bright* rejected. As the dissent in *Buenrostro-Mendez* recognized, the majority's reading amounts to “rubber stamp[ing]” the government's “proposed legislation by executive fiat,” a concern heightened in the post-*Chevron* era where courts must not abdicate their interpretive role. The panel's failure to grapple with *Loper Bright*'s implications is particularly striking given that the BIA itself invoked *Loper Bright* in *Yajure Hurtado* to assert that the statute is “clear and unambiguous,” thereby attempting to preempt deference questions. But where reasonable minds differ—as evidenced by the hundreds of district courts rejecting the government's position, the dissent's detailed critique, and the statutory tensions (*e.g.*, surplusage in § 1226(a), present-tense “seeking admission”)—*Loper Bright* requires courts to resolve ambiguity independently, not to defer to an agency's self-serving declaration of clarity after decades of interpreting the statute differently.



59. For these reasons, the panel's statutory holding warrants reconsideration *en banc*, as it conflicts with *Loper Bright's* command that courts, not agencies, hold the ultimate responsibility for statutory meaning. This Court, while bound by the panel's result on the pure statutory claim in this Circuit, may note this tension in support of granting relief on the independent constitutional and APA grounds asserted herein.

**COUNT I: UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION  
AND NATIONALITY ACT (INA) AND IMPLEMENTING  
REGULATIONS**

60. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.
61. The Immigration and Nationality Act authorizes immigration detention only when it serves a legitimate statutory purpose—namely, to ensure an individual's appearance at future proceedings or to protect public safety. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543 U.S. 371, 381 (2005). Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority.
62. Petitioner is a citizen and national of India who entered the United States seeking protection and was subsequently placed in removal proceedings under section 240 of the Immigration and Nationality Act.
63. Petitioner lacks a criminal conviction history, has no record of violence, and has never exhibited conduct suggesting danger to the community or risk of flight. Nothing in his immigration file indicates that he poses a threat to public safety or that he would fail to appear for his hearings if released.



64. The jurisdictional denial by Immigration Judges currently in effect leaves Petitioner with no administrative mechanism for custody review, effectively subjecting him to prolonged and potentially indefinite detention without any statutory pathway to request release.
65. The INA does not authorize indefinite detention of a noncitizen who has no final order of removal, who poses no danger or flight risk, and who has not been afforded an opportunity to present evidence regarding custody.
66. Petitioner's continued detention—without individualized assessment, without statutory justification, and without any realistic prospect of removal in the reasonably foreseeable future—exceeds the narrow detention authority granted by the INA and violates controlling Supreme Court precedent limiting civil immigration detention to purposes expressly authorized by Congress.
67. Accordingly, Petitioner's ongoing detention is unlawful under the Immigration and Nationality Act, its implementing regulations, and established constitutional principles. Petitioner respectfully requests that this Court order his immediate release or, alternatively, require the government to provide a constitutionally adequate custody hearing before an Immigration Judge with authority to order his release on bond.

**COUNT II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH  
AMENDMENT TO THE U.S. CONSTITUTION**

68. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.
69. ICE's power to arrest a noncitizen who is at liberty is constrained by the demands of due process. *See Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) ("the government's discretion to incarcerate non-citizens is always constrained by the requirements of due process"). "It is well established that the Fifth Amendment entitles [noncitizens] to due



process of law in deportation proceedings.”” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); see also *id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.”).

70. Petitioner is a citizen and national of India who entered the United States seeking protection and was placed in removal proceedings under section 240 of the Immigration and Nationality Act.
71. Petitioner lacks the criminal conviction history, has not engaged in violence or dangerous behavior, and has consistently cooperated with immigration authorities since his apprehension. His detention has now become prolonged, with no statutory or administrative mechanism available for individualized custody review. He faces ongoing incarceration under penal-like conditions despite having lack of criminal conviction background and pursuing his asylum and protection claims in good faith.
72. Petitioner’s liberty from immigration custody and his weighty interest in avoiding incarceration is protected by the Due Process Clause. See *Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment...lies at the heart of the liberty” that the Due Process Clause protects); *Morrissey v. Brewer*, 408 U.S. 471, 482-483 (1972) (holding that a parolee has a protected liberty interest in his conditional release); *Young v. Harper*, 520 U.S. 143, 146-47 (1997); *Gagnon v. Scarpelli*, 411 U.S. 778, 781-82 (1973).



73. Immigration detention implicates a fundamental liberty interest. Prolonged detention without a meaningful opportunity to challenge confinement violates the core due process guarantees of notice, the right to be heard, and adjudication by a neutral decisionmaker.
74. Accordingly, Petitioner's continued incarceration without an individualized custody determination violates the Due Process Clause of the Fifth Amendment. Habeas relief is warranted to remedy these constitutional violations by ordering his immediate release .

**COUNT III: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT –  
ARBITRARY AND CAPRICIOUS AGENCY ACTION**

75. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.
76. The Administrative Procedure Act (APA), 5 U.S.C. § 706(2), requires courts to hold unlawful and set aside agency actions that are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. Under this standard, an agency must articulate a rational connection between the facts found and the choices made, and it must provide an adequate explanation for its actions consistent with statutory authority. See *Judulang v. Holder*, 565 U.S. 42, 55 (2011).
77. The Department of Homeland Security and ICE acted arbitrarily and capriciously in continuing to detain Petitioner without any individualized justification and failed to consider the totality of his immigration history. Petitioner's has no criminal conviction, no record of violence or misconduct, and has consistently cooperated with immigration authorities. Nothing in his record establishes that he presents a danger to the community or a flight risk.
78. Despite these facts, DHS has maintained Petitioner's detention for an extended and potentially indefinite period without providing any reasoned explanation or evidence that



continued confinement serves a legitimate statutory purpose. DHS has failed to articulate why release under supervision, bond, or other alternatives would be insufficient.

79. DHS's reliance on *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), to justify continued detention is arbitrary and contrary to law. *Q. Li* addresses the jurisdiction of Immigration Judges to conduct bond hearings for individuals allegedly apprehended shortly after entry. It does not compel DHS to detain such individuals indefinitely, nor does it eliminate DHS's longstanding discretionary authority to release noncitizens on parole, recognizance, supervision, or bond.
80. By treating *Q. Li* as an absolute bar to any form of custody review or discretionary release, DHS has effectively adopted a blanket detention policy that substitutes categorical rules for the individualized determinations required under the Immigration and Nationality Act.
81. DHS has not conducted any meaningful custody assessment of Petitioner, nor has it provided a rational explanation for refusing to exercise discretion in his case. Its failure to consider Petitioner's lack of criminal convictions, his cooperation with authorities, or his eligibility for alternatives to detention constitutes arbitrary and capricious decision-making.
82. DHS's actions are inconsistent with the statutory purpose of civil immigration detention, which is limited to ensuring appearance at future proceedings and protecting public safety. Petitioner's continued confinement does not advance either purpose.
83. DHS has therefore acted in a manner that is arbitrary, capricious, an abuse of discretion, and not in accordance with law. Its continued detention of Petitioner must be set aside under 5 U.S.C. § 706(2)(A).



84. Habeas relief is warranted to remedy this unlawful agency conduct. Petitioner respectfully requests that this Court order his immediate release.

**COUNT IV: VIOLATION OF THE EQUAL PROTECTION  
GUARANTEE OF THE FIFTH AMENDMENT**

85. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.
86. The Due Process Clause of the Fifth Amendment contains an implicit guarantee of equal protection that applies to all persons within the United States, including noncitizens physically present, regardless of their immigration status. See *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Plyler v. Doe*, 457 U.S. 202, 210 (1982). The government may not selectively apply immigration laws or policies in a manner that discriminates against a particular nationality or class of individuals without a rational and legitimate governmental purpose.
87. Petitioner is placed in removal proceedings under section 240 of the Immigration and Nationality Act, a statutory framework under which noncitizens ordinarily receive an individualized custody determination before an Immigration Judge pursuant to section 236(a).
88. Petitioner is a citizen and national of India who fled his country seeking protection. He lacks criminal convictions, no record of violence or dangerous behavior, and has cooperated fully with immigration authorities since entering the United States.
89. The government's treatment of Petitioner creates an unjustifiable disparity between him and similarly situated detainees who receive individualized bond hearings. The Fifth Amendment prohibits the government from treating similarly situated persons differently



without a rational basis. *Village of Willowbrook v. Olech*, 528 U.S. 562, 564 (2000); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).

90. DHS's categorical reliance on section 235(b) to foreclose Petitioner's access to custody review—despite his placement in § 240 proceedings—lacks a rational connection to any legitimate governmental purpose. Disparate treatment based solely on disputed and unreviewed facts regarding manner of entry is arbitrary and not rationally related to the goals of ensuring appearance or protecting public safety. See *Zadvydas*, 533 U.S. at 690 (civil detention must relate to its permissible purposes).
91. Moreover, the Ninth Circuit has recognized that immigration detention classifications must comport with basic fairness and may not be applied in an arbitrary or discriminatory manner. *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011) (government must justify detention with individualized evidence); *Rodriguez v. Robbins*, 804 F.3d 1060, 1074–76 (9th Cir. 2015) (due process prohibits prolonged detention without meaningful review).
92. DHS has provided no individualized or rational explanation for why Petitioner, unlike others in the same statutory posture, is denied access to an individualized custody determination. This unequal treatment violates the equal protection component of the Fifth Amendment.
93. Petitioner's continued incarceration under a discriminatory and arbitrary detention classification violates constitutional guarantees of equal protection and further underscores the unreasonableness and unlawfulness of his confinement.
94. Habeas relief is therefore warranted to remedy this unconstitutional disparate treatment by ordering Petitioner's immediate release or, in the alternative, directing DHS to provide him



with the same procedural protection and individualized custody review available to similarly situated noncitizens.

**COUNT V: VIOLATION OF THE SUSPENSION CLAUSE OF THE UNITED STATES  
CONSTITUTION**

95. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.
96. The Suspension Clause of the United States Constitution provides that “[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.” U.S. Const. art. I, § 9, cl. 2. The Clause guarantees the availability of judicial review to challenge the lawfulness of executive detention. *Boumediene v. Bush*, 553 U.S. 723, 745–46 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–05 (2001).
97. Habeas corpus remains available to all persons in the United States who are detained by executive authority, including noncitizens in civil immigration custody. The Supreme Court has made clear that Congress may not eliminate all avenues of meaningful judicial review of the legality of detention. *St. Cyr*, 533 U.S. at 305–06.
98. Petitioner is detained solely pursuant to civil immigration authority. He has lack of criminal convictions, no record of violence, and is pursuing his asylum, withholding, and Convention Against Torture claims in good faith.
99. ICE has provided no discretionary parole review or case-specific custody assessment.
100. As elucidated above, no alternative remedy exists outside of habeas corpus through which Petitioner may obtain judicial review of the legality of his ongoing confinement. Neither



the Immigration Courts nor the Board of Immigration Appeals possess jurisdiction to review custody challenges arising from DHS's mandatory-detention classification.

101. The Suspension Clause forbids the government from creating a detention scheme that eliminates all meaningful opportunity for detainees to test the legality of their confinement. *Boumediene*, 553 U.S. at 779 (“The writ must be effective.”). Where no adequate substitute exists, habeas review is constitutionally required. *St. Cyr*, 533 U.S. at 305.
102. Petitioner's detention, which is prolonged, indefinite, and wholly insulated from individualized review, triggers the core protections of the Suspension Clause. Without access to habeas relief, Petitioner would have no mechanism—judicial or administrative—to contest the legality of her civil confinement.
103. The government's application of *Matter of Q. Li* to categorically bar all custody review violates the Suspension Clause by depriving Petitioner of an effective and constitutionally required means to challenge unlawful detention.

**COUNT VI: VIOLATION OF THE *ACCARDI* DOCTRINE WITH RESPECT  
TO 8 C.F.R. § 287.8(C)(2)(I) AND (II)**

104. Petitioner repeats and incorporates by reference each allegation contained in the preceding paragraphs as if fully set forth herein.
105. Under the *Accardi* doctrine, federal agencies are required to follow their own binding regulations, and failure to do so renders resulting agency action unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 267–68 (1954); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974). This principle applies with full force in immigration proceedings and is enforceable through habeas corpus where regulatory violations result in unlawful detention.



106. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests comply with the standards set forth in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present in the United States illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is “likely to escape before a warrant can be obtained.” 8 C.F.R. § 287.8(c)(2)(ii).
107. These regulatory requirements are mandatory, not discretionary. They impose substantive limitations on ICE’s authority to conduct warrantless arrests in the interior of the United States and are designed to protect against arbitrary deprivations of liberty. At the time he was taken into ICE custody on October 30, 2025, and at all times thereafter, Petitioner had complied with all immigration requirements, including remaining available to immigration authorities.
108. Petitioner was not evading law enforcement, was not subject to any criminal investigation, posed no danger to any person or to the community, and presented no risk of flight. There was no factual basis to conclude that Petitioner was “likely to escape before a warrant could be obtained,” as required by 8 C.F.R. § 287.8(c)(2)(ii).
109. ICE officers, therefore, failed to comply with a mandatory regulatory prerequisite to a lawful warrantless arrest. This violation of DHS’s own binding regulations renders Petitioner’s arrest unlawful under the Accardi doctrine.
110. The consequences of this regulatory violation are not limited to the moment of



arrest. Petitioner's ongoing detention flows directly from—and is predicated upon—the unlawful warrantless arrest conducted in violation of 8 C.F.R. § 287.8(c). Continued detention based on an arrest that contravenes binding regulations is itself unlawful.

111. Federal courts have repeatedly recognized that habeas corpus is an appropriate vehicle to remedy detention that results from an agency's failure to follow its own regulations, particularly where those regulations are designed to protect individual liberty. *See Accardi*, 347 U.S. at 267–68; *St. Cyr*, 533 U.S. at 301–05.
112. By arresting Petitioner without a warrant and without satisfying the regulatory requirements governing such arrests, DHS violated the *Accardi* doctrine and deprived Petitioner of liberty in a manner not authorized by law.
113. *Habeas* relief is therefore warranted. Petitioner respectfully requests that this Court grant the writ and order his immediate release from ICE custody.

#### **PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter pursuant to 28 U.S.C. §§ 2241 and 1331;
- (2) Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding seven days, and set the matter for a prompt hearing;
- (3) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this action, absent further order of the Court;
- (4) Declare that Petitioner's continued detention violates the Constitution and laws of the United States, including but not limited to the Due Process Clause of the



Fifth Amendment; the equal protection component of the Fifth Amendment; the Suspension Clause of Article I, Section 9 of the United States Constitution; the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and the Accardi doctrine, based on Respondents' failure to comply with binding immigration arrest regulations. Petitioner re-detention violates the *inter alia*, the Due Process Clause of the Fifth Amendment. Petitioner's re-detention violates his procedural due process rights;

- (5) Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody;
- (6) Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
- (7) Grant any other further relief this Court deems just and proper.

DATED this March 11, 2026

Respectfully Submitted,

/s/ Preetkamal Singh  
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ATTORNEY FOR PETITIONER



**CERTIFICATE OF SERVICE**

I, the undersigned, declare that my office is in Houston, Texas. I am over the age of eighteen (18) years and not a party to the action within. On March 11 of 2026, I served the following documents: **PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241** with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system.

I declare under the penalty of perjury that the foregoing is true and correct. Executed on March 11 of 2026., at Houston, Texas.

/s/ Preetkamal Singh  
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