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**IN THE UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF CALIFORNIA**

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| BALVIR SINGH<br><br>Petitioner,<br>v.<br><br>JEREMY CASEY, Warden of the Imperial Regional Detention Center; TODD LYONS, Acting Director of Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; PAMELA BONDI, Attorney General of the United States<br><br>Respondents. | Civil No. 3:26-cv-01544-BJC-MSB |

**PETITIONER'S TRAVERSE IN RESPONSE TO RETURN TO PETITION FOR WRIT OF HABEAS CORPUS**

## I. INTRODUCTION

Respondents' Return attempts to reframe this case as a routine challenge to mandatory detention under 8 U.S.C. § 1225(b). It is not. This case concerns the unlawful deprivation of liberty without constitutionally required process—including Respondents' attempt to justify continued detention while ignoring that Petitioner was previously released and lived at liberty under government supervision.

Respondents' arguments fail for three core reasons:

1. Jurisdiction exists because Petitioner challenges the legality of his detention—not the decision to commence removal proceedings;
2. Petitioner is not properly subject to § 1225(b) mandatory detention in the manner Respondents claim; and
3. Even if § 1225(b) applies, due process limits indefinite detention, and Petitioner's continued detention without meaningful process violates the Constitution.

## II. RESPONDENTS' JURISDICTIONAL ARGUMENT FAILS

Respondents argue that this Court lacks jurisdiction under 8 U.S.C. § 1252(g). That is incorrect. Section 1252(g) applies only to three discrete actions: the decision to commence proceedings, adjudicate cases, or execute removal orders. It does not bar habeas challenges to the legality or constitutionality of detention itself.

Here, Petitioner does not challenge the decision to initiate removal proceedings. He challenges the legal basis for his detention, and the lack of constitutionally adequate process

Courts in this Circuit consistently recognize jurisdiction over such claims. Respondents' own framing confirms the issue: they assert that detention "arises from" the commencement of proceedings. (ECF No. 3). That is precisely the type of overbroad interpretation courts have rejected.

Because Petitioner challenges custody, not prosecutorial discretion, § 1252(g) does not apply.

## III. RESPONDENTS MISCHARACTERIZE PETITIONER AS SUBJECT TO § 1225(b)

Respondents assert that Petitioner is an "arriving alien" subject to mandatory detention under § 1225(b) based on his initial 2017 entry. That argument fails for two independent reasons.

### A. The Relevant Inquiry Is Current Custody Authority

Even assuming Petitioner was initially processed under § 1225(b), that does not resolve the legality of current detention years later. Petitioner was processed and placed into removal proceedings under § 1229a; he was granted bond by an Immigration Judge; he was released into the community; and lived at liberty under government supervision

Once the government exercised discretionary release authority, the detention framework necessarily changed. Respondents ignore this critical fact.

**B. Prior Release Breaks the Logic of "Mandatory" Detention**

Respondents claim detention is "mandatory" under § 1225(b). But that position is incompatible with the record: Petitioner was previously released on bond; Immigration court and DHS exercised discretion inconsistent with "mandatory detention"; and the government cannot now retroactively claim detention was always mandatory

Courts routinely reject attempts to invoke § 1225(b) after prolonged release in the interior.

**IV. DUE PROCESS LIMITS DETENTION—EVEN UNDER § 1225(b)**

Respondents rely heavily on *Jennings* and *Thuraissigiam*. Those cases do not resolve this case.

**A. Jennings Did Not Eliminate Constitutional Limits**

*Jennings* addressed statutory interpretation—not constitutional due process. Even where detention is statutorily authorized, constitutional limits still apply. This Fourth Amendment violation underscores the absence of any lawful basis for detention and reinforces Petitioner's due process claim that his liberty was revoked without constitutionally required justification.

**B. Thuraissigiam Is Inapposite**

Respondents cite *Thuraissigiam* for the proposition that arriving noncitizens have limited rights. But that case involved a recent entrant who was in expedited removal and with no established ties to the United States

Here, by contrast Petitioner has been in the United States for years; he was placed into full removal proceedings; he was granted bond and released; and he developed substantial liberty interests That distinction is dispositive.

**C. Prolonged Detention Without Process Violates Due Process**

Respondents attempt to minimize the length of detention by focusing only on recent custody. That framing is misleading. The relevant inquiry considers the totality of custody and liberty deprivation, the absence of meaningful procedural safeguards, and the government's failure to justify continued detention

Under Southern District of California precedent (including *Lopez* and related cases cited by Respondents), detention becomes unconstitutional where it is indefinite, lacking procedural protections, and unsupported by individualized findings. That is exactly the situation here.

**V. PETITIONER'S SEIZURE AND RE-DETENTION VIOLATE THE FOURTH AMENDMENT**

Respondents' actions independently violate the Fourth Amendment's prohibition on unreasonable seizures. Respondents' Return does not identify any warrant, probable cause determination, or statutory basis for Petitioner's arrest—confirming that the seizure was unsupported at the time it occurred.

The Fourth Amendment protects "[t]he right of the people to be secure in their persons… against unreasonable searches and seizures." U.S. Const. amend. IV. This protection applies to civil immigration arrests. See *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1043 (1984).

Here, Petitioner was seized without a warrant, without probable cause, and without any individualized justification.

As alleged in the Petition, immigration officers in plain clothes approached Petitioner while he was lawfully present in a parked vehicle during the course of his employment, demanded identification, and immediately detained him. Respondents did not allege any violation of immigration law; any violation of bond conditions; any criminal conduct; or any changed circumstance justifying arrest.

Instead, the seizure was effectuated solely based on Petitioner's identity and a categorical agency policy.

**A. The Warrantless Seizure Was Unreasonable**

A civil immigration arrest must be supported by probable cause and, absent exigent circumstances, a warrant. See 8 U.S.C. § 1357(a)(2). Respondents have not alleged either.

Petitioner had: (1) a valid employment authorization document; (2) ongoing removal proceedings; and (3) a long history of compliance with all immigration requirements

Under these circumstances, there was no basis to believe Petitioner was subject to immediate arrest without a warrant.

**B. The Seizure Was Not Supported by Probable Cause**

Probable cause requires a reasonable belief that the individual is removable and subject to custody under governing law.

Here, Respondents rely on a post hoc legal theory—that Petitioner is subject to mandatory detention under § 1225(b). But Petitioner had already been released on bond by an Immigration Judge; he remained in ongoing § 1229a proceedings; and he had not violated any condition of release. Because the underlying detention authority is legally disputed and factually unsupported, the seizure itself lacks probable cause.

**C. The Seizure Was Arbitrary and Policy-Driven**

The facts demonstrate that Petitioner was detained pursuant to a categorical policy, not an individualized determination.

Officers did not investigate any violation; did not articulate any basis for arrest; and immediately detained Petitioner upon confirming identity. Such suspicionless seizures are the hallmark of Fourth Amendment violations.

**D. The Fourth Amendment Violation Reinforces Habeas Relief**

Where detention follows an unlawful seizure, continued custody is constitutionally infirm. The absence of a warrant, probable cause, and any individualized justification renders Petitioner's detention unlawful independent of the statutory and due process violations discussed above.

At minimum, this constitutional defect strongly supports immediate release or, at the very least, a prompt individualized custody determination.

**VI. RESPONDENTS FAIL TO JUSTIFY CONTINUED DETENTION**

Respondents do not argue that Petitioner is a flight risk; is a danger to the community; or violated conditions of release. Instead, they rely entirely on a categorical detention theory. That is insufficient.

Even under § 1226(a), due process requires an individualized hearing; government burden by clear and convincing evidence; and a neutral decisionmaker. Respondents offer none of this.

Habeas corpus exists to remedy unlawful detention. Where the government deprives an individual of liberty without constitutionally required process, the appropriate remedy is release from custody unless and until lawful procedures are followed.

Because Respondents failed to provide the required pre-deprivation process before detaining Petitioner, the Court should grant the writ.

**VII. THE COURT SHOULD GRANT HABEAS RELIEF**

Respondents ask this Court to deny jurisdiction; or accept indefinite detention without process. Both positions are inconsistent with controlling law. Because Jurisdiction exists, detention is not lawfully mandatory, and due process has been violated, the Court should grant relief. Because Petitioner's detention flows directly from an unlawful seizure, continued custody cannot be sustained absent a lawful basis established through constitutionally adequate procedures.

**VIII. CONCLUSION**

For the foregoing reasons, Petitioner respectfully requests that the Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order immediate release, or in the alternative;
3. Order a constitutionally compliant bond hearing within a date certain; and
4. Grant any further relief the Court deems just and proper.

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Respectfully,

*/s/Gurpreet Kaur*
Gurpreet Kaur, Esq.

Dated this 23rd day of March, 2026.