

IMMIGRATION MATTER

[A ,

V.

ERIK ROKOSKY, Warden, Eloy Fed CTR Facility (Core Civic); TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the United States Department of Homeland Security, PAMELA BONDI, Attorney General of the United States, acting in their official capacities,

RESPONDENTS.

PETITION FOR WRIT OF HABEAS CORPUS

Date Filed: March 24, 2026

I. INTRODUCTION

1. Gurjot Singh (“Petitioner”), who was unlawfully arrested on Feb 14, 2026, asks this Court to order his immediate release from custody as his arrest, and current detention, violates the Constitution and applicable statutes. Petitioner next asks the Court to order

1 and declare that any future detention or arrest can only occur pursuant to the
2 requirements of 8 U.S.C. 1226(a) and the Constitution of the United States.

3
4 **2. Petitioner respectfully asks the Court to issue an order requiring Respondents to**
5 **answer and show cause as to why the habeas should not be granted within 5 days.**

6 There are no factual questions in this case. The legal issues are familiar to the Court
7 and to the parties and have been resolved nearly unanimously, across the country, in
8 favor of Petitioner and similarly situated persons.

9 3. Affording lengthy response time serves no purpose as Respondents will submit the
10 same arguments they have in other cases. They may advise the Court of the existence
11 of pending appellate litigation though there is no pending case that necessarily will
12 decide the issues here, nor is there any intervening controlling precedent. Respondents
13 should not be allowed to reap the ill-gotten 'gains' of the unlawful detention
14 challenged here.

15 4. Petitioner is an asylum seeker who fled India and arrived in the U.S. on Aug 6, 2023.
16 He entered the United States with a valid F1 Student visa, and he was authorized to stay
17 during his student status. He lodged asylum application within one year of his arrival
18 under INA § 208 or 8 U.S.C. § 1158.

19
20 5. On February 14, 2026, Petitioner was arrested despite no change in material
21 circumstances and without a pre-deprivation hearing. Petitioner has no criminal history
22 and has not violated any immigration laws or any State/Federal law.

23 6. On that date, Petitioner was driving a truck near Yuma, Arizona, en route to California,
24 when ICE/CBP agents conducted a stop and questioned him regarding his immigration
25 status. Following this interrogation, agents arrested Petitioner and transported him to
26 an ICE detention facility, disregarding the fact that his asylum application remains
27 pending before USCIS, he possesses a valid Employment Authorization Document
28 (EAD), holds a valid driver's license, and had not committed any crime.

- 1 7. Respondents now claim he is lawfully detained under INA 212 and 237 [not specifying
2 what specific section applied to this case]. See, *I-213 filed by the respondents*.
- 3
- 4 8. Petitioner is being detained at the Eloy Detention Center at 1705 East Hanna Rd, in
5 Eloy, Arizona.
- 6 9. District Courts across the country have almost unanimously found Respondents
7 detention, without prior hearing and/or refusal to hold bond hearings, unlawful in
8 identical or similar circumstances. *Sapkota v. Rokosky*, No. 2:26-cv-01486, slip op. at
9 * __ (D. Ariz. Mar. __, 2026); *Echevarria v. Bondi*, No. CV-25-03252, 2025 LX 492534
10 (D. Ariz. Oct. 3, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025
11 LX 303800 (D. Ariz. Aug. 11, 2025); *Doe v. Becerra*, No. 2:25-cv-647-DJC-DMC,
12 2025 U.S. Dist. LEXIS 37929 at *8 (E.D. Cal. Mar. 3, 2025) (granting temporary
13 restraining order); *M.B. v. Noem*, No. 1:26-cv-00005-DJC-AC, 2026 U.S. Dist. LEXIS
14 4661, at *5-8 (E.D. Cal. Jan. 9, 2026); *J.S.H.M v. Wofford*, No. 1:25-cv-01309-JLT-
15 SKO, 2025 U.S. Dist. LEXIS 204422, 2025 WL 2938808; *Puerto v. Leeper*, No. 26-
16 CV-405, 2026 U.S. Dist. LEXIS 14909, at *3 (E.D.N.Y. Jan. 27, 2026)(noting
17 “hundreds” of Courts in agreement); *Alberto R.C. v. Murray*, No. 1:25-cv-01618-KES-
18 SKO (HC), 2025 LX 513970 (E.D. Cal. Dec. 16, 2025); *Sharan S. v. Chestnut*, No.
19 1:25-cv-01427-KES-SKO (HC), 2025 LX 524863 (E.D. Cal. Nov. 12, 2025); *López v.*
20 *Wofford*, No. 1:25-cv-01226-KES-SKO (HC), 2025 LX 491132, (E.D. Cal. Oct. 17,
21 2025)(requiring release of asylum seeker and a pre-detention bond hearing before re-
22 arrest *Garro Pinchi v. Noem*, No. 25-cv-05632, 2025 U.S. Dist. LEXIS 127539 at *4
23 (N.D. Cal. July 4, 2025) (same), (N.D. Cal. July 24, 2025).
- 24 10. Civil Immigration Detention is generally only permissible for only two reasons: to
25 ensure a noncitizen’s appearance at immigration hearings and to prevent danger to the
26 community. *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 U.S. Dist.
27 LEXIS 190934, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025) (citing *Zadvydas*
28 *v. Davis*, 533 U.S. 678, 695 (2001)).

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

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

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

16 II. JURISDICTION AND VENUE

17

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

23 15. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28
24 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this
25 district. Petitioner is detained at Eloy Fed CTR Facility, 1705 East Hanna Road, Eloy,
26 AZ 85131.

III. PARTIES

16. Petitioner, Gurjot Singh, is 23-year-old native and citizen of India. He is presently in physical custody of Immigration and Customs Enforcement (ICE), 1705 East Hanna Road, Eloy, AZ 85131.

17. Respondent, ERIK ROKOSKY, is the warden for Eloy Fed CTR Facility (Core Civic), and he is responsible for the day-to-day operations of the facility where Petitioner is detained [1705 East Hanna Road, Eloy, AZ 85131. He is sued in his official capacity.

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

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

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

IV. EXHAUSTION

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

22. Immigration Judges frequently rely on generalized assertions of flight risk as an independent basis to deny bond, often without individualized evidence demonstrating that the noncitizen is unlikely to appear for future proceedings.

23. ICE and DOJ have adopted this new and unprecedented position on bond even though federal courts have rejected this exact conclusion. For example, in the Tacoma, Washington, immigration court, IJs previously stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, reasoning such people are subject to mandatory detention under § 1225(b)(2)(A). There, in granting preliminary injunctive relief, the U.S. District Court for the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---- 2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (ordering release where noncitizen was redetained based on ICE’s assertion of detention authority under § 1225(b)).

24. In this case, Petitioner requested a bond hearing before the Immigration Court. A Bond hearing was held on **March 3, 2026**, at which time the IJ denied bond pursuant to **8 C.F.R. § 1236.1(d)(1)**, finding that Petitioner posed a significant “flight risk”. The decision contents read: *“The court finds that the respondent has failed to meet his burden of proving he is not a flight risk if released on bond, finds that the respondent is properly detained without bond, and declines to sent bond in his case.”*

25. The Immigration Judge’s primary flight risk concern was that the Petitioner maintained a different address from his sponsor (his cousin). However, it is important to note that the Petitioner is an adult male who was employed full-time and maintained his own apartment in Lodi, California. The Immigration Judge expressed concern that the sponsor resides in Manteca, California, but it was not necessary for the Petitioner to have been living with his sponsor prior to detention. The sponsor submitted an affidavit stating that the Petitioner would reside with him upon release, as the Petitioner’s apartment would likely have been vacated or subject to eviction during his period of detention.

26. The IJ also showed concern why Petitioner failed to maintain his student status and it was terminated prior to the completion of his studies which is not a material issue for the bond hearing and it should not be a subject of flight concern.

27. Under *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), Immigration Judges determining bond under INA § 236(a) must consider whether the respondent is a flight risk or a danger to the community based on the totality of the circumstances. Relevant factors include, but are not limited to, the respondent’s fixed address, length of residence in the United States, family ties, employment history, record of court appearances, immigration history, criminal record (including its recency and seriousness), evidence of rehabilitation, and overall community ties. The Immigration Judge may consider any evidence that is probative of whether the respondent presents a risk of flight or danger.

1 28. The Immigration Judge was on notice that the Petitioner had filed an asylum
2 application, obtained employment authorization, maintained full-time employment, and
3 secured independent housing. Additionally, the Petitioner demonstrated strong
4 community ties through a close family member (his cousin) with a fixed address and
5 steady income, and he had no criminal history during his residence in the United States.
6 These factors—including stable employment, fixed residence, family ties, and lack of
7 criminal record—are all relevant considerations under *Matter of Guerra*, 24 I&N Dec.
8 37 (BIA 2006), and collectively establish that the Petitioner satisfied the applicable
9 standard for bond.

10 29. Petitioner timely filed his asylum application and has been pursuing his claim in good
11 faith. He has complied with local and federal laws, has no history of absconding, and
12 has consistently appeared as required. These strong family and community ties weigh
13 heavily against any finding of flight risk.

14
15 30. Despite the substantial documentary evidence and sworn testimony demonstrating
16 Petitioner's stable residence, lawful employment history, financial support, family ties,
17 and compliance with the law, the Immigration Judge nevertheless determined that
18 Petitioner presents a flight risk. The IJ's decision failed to properly consider the totality
19 of the evidence and relied on factors unrelated to Petitioner's actual residence or
20 financial stability.

21 31. Any appeal to the BIA is futile. DHS's new policy was issued "in coordination with"
22 DOJ. EOIR—the immigration court system—is a component agency of DOJ. Further,
23 as noted, a recent unpublished BIA decision held that persons like the Petitioner are
24 subject to mandatory detention as applicants for admission. Finally, in the *Rodriguez*
25 *Vazquez*, litigation, where EOIR and the Attorney General are defendants, DOJ has
26 affirmed its position that individuals like Petitioner are subject to detention under §
27 1225(b)(2)(A). See, e.g., Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-
28 CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–30.

V. LEGAL BACKGROUND

A. The Constitution prohibits arbitrary arrest and detention of noncitizens

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

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

34. These protections extend to noncitizens as “[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). Accordingly, “[f]reedom 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*, 533 U.S. at 690.

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

36. 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.")

37. 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).

38. 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.*

39. 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.

40. 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)).

41. Removal proceedings under Section 240 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

42. 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).

43. Section 1225 is titled “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” The statute provides: An alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission. . . Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title. 8 U.S.C. § 1225(a)(1), (b)(2)(A).

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

4 45. An "[a]rriving alien means an applicant for admission coming or attempting to come
 5 into the United States . . . regardless of the means of transport." 8 C.F.R. § 1.2.
 6 "Admission" and "admitted" mean "the lawful entry of the alien into the United States
 7 after inspection and authorization by an immigration officer." 8 U.S.C. §
 8 1101(a)(13)(A).
 9

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

16 47. Section 1226 titled "Apprehension and detention of aliens," states:
 17

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

21 (1) may continue to detain the arrested alien; and
 22

23 (2) may release the alien on—

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

26 (B) conditional parole8 U.S.C. § 1226(a).U.S.C. § 1226(a) therefore creates a
 27 "discretionary detention framework" for noncitizens arrested and detained on a
 28 warrant issued by the Attorney General. *Gomes*, 2025 U.S. Dist. LEXIS 128085,
 2025 WL 1869299, at *2. It "authorizes the [g]overnment to detain certain aliens

1 already in the country pending the outcome of removal proceedings." *Jennings*, 583
2 U.S. at 289.

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

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

13
14 50. Section 1226(a)(2)(B) also allows release "on an Order of Recognizance, which is a
15 form of conditional parole." *Id.* (citations omitted).

16 51. § 1226(a) requires "an individualized bond determination before a noncitizen may be
17 taken into custody." , *Artiga v. Genalo*, No. 25 CV 5208 (OEM), 2025 U.S. Dist. LEXIS
18 196847, 2025 WL 2829434, at *8 (E.D.N.Y. Oct. 5, 2025); *Rodriguez v. Bostock*, No.
19 25 CV 05240 (TMC), 2025 WL 2782499, at *16-26 (W.D. Wash. Sep. 30, 2025);
20 *Salcedo Aceros v. Kaiser*, No. 25 CV 06924 (EMC), 2025 U.S. Dist. LEXIS 179594,
21 2025 WL 2637503, at *6-13 (N.D. Cal. Sep. 12, 2025); *Belsai D.S. v. Bondi*, No. 25
22 CV 3682, 2025 U.S. Dist. LEXIS 194262, 2025 WL 2802947, at *5 (D. Minn. Oct. 1,
23 2025) (collecting cases).

VI. FACTUAL ALLEGATIONS

A. DHS and EOIR seek to increase arrests and detentions

52. 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.

53. 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

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

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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>.

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

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

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

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

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

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

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

1 61. Respondents often cite to de minimis alleged violations of conditions of prior release
2 as pretext for rearrest.

3
4 62. Numerous sources have reported that the alleged violations are not supported in
5 Respondents' records keeping systems or that noncitizens report the alleged violations
6 are simply not accurate. *See e.g. Ramazan M. v. Andrews*, No. 1:25-cv-01356-KES-
7 SKO (HC), 2025 WL 3145562, at *6 (E.D. Cal. Nov. 10, 2025) (ordering pre-
8 deprivation hearing where Respondents alleged check-in and other electronic
9 monitoring violations, because "[w]hile respondents argue that petitioner is a flight risk,
10 the purpose of a bond hearing is for a neutral decisionmaker to consider and evaluate
11 such an argument to determine whether it is consistent with the facts and to ensure that
12 noncitizens like petitioner are not deprived of their liberty without justification"), and
13 at *E.A. T.B. v. Wamsley*, No. C25-1192-KKE, 2025 WL 2402130, at *4 (W.D. Wash.
14 Aug. 19, 2025) (ordering immediate release of petitioner and finding that it does not
15 "necessarily follow that Petitioner can be detained for [release conditions] violations
16 without a hearing. That the Government may believe it has a valid reason to detain
17 petitioner does not eliminate its obligation to effectuate the detention in a manner that
18 comports with due process.").

19 63. Judges have also found the supposed violations "negligible" or been skeptical of
20 existence of purported violations. *See e.g. Alas v. Albarran*, 2025 U.S. Dist. LEXIS
21 207060 *2 FN1 (ND Cal. Oct. 15, 2025).

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

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

24 65. Petitioner entered the United States as an F1 visa holder on Aug 6, 2023.

25 66. Petitioner filed asylum application within one year of his arrival, and provided
26 biometric as scheduled by the USCIS.

27 67. Petitioner got his EAD and he started working full-time.

28 68. On Feb 14, 2026, he was arrested despite no change in material circumstances, and

- 1 without pre-deprivation hearing.
- 2 69. CBP issued a Notice to Appear under Section 1229(a) Removal Proceedings on Feb
- 3 21, 2026.
- 4 70. Petitioner was just pulled over on main high way because he obvious looked an
- 5 “Indian Sikh” driving truck, and there was no probable cause to stop him. After soft
- 6 inquiry, the officers determined that Petitioner did not have a lawful status, so he was
- 7 arrested Petitioner under INA 237(a)(1)(B).
- 8 71. Petitioner was not provided with a pre-deprivation hearing or notice of the basis for his
- 9 detention.
- 10 72. The Notice to Appear does not allege Petitioner is an ‘arriving alien,’ though containing
- 11 spot to designate this information.
- 12 73. Petitioner has never been arrested or missed any appointments with Immigration
- 13 Customs Enforcement, or any other agency.
- 14 74. Petitioner remains detained in Respondents’ custody at this time.
- 15 75. Petitioner is scheduled for a preliminary hearing in Immigration Court on March 31, 2026.
- 16 76. It is likely that hearing on the merits of the application for asylum will not be heard for
- 17 several months. Regardless of outcome, there is strong chance that proceedings will not be
- 18 final as each side has right to appeal the immigration judge’s ruling to the Board of
- 19 Immigration Appeals. The BIA routinely takes more than six-month to decide appeals in
- 20 detained cases.
- 21 77. Waiting times for individual hearings continue to balloon as judges leave or are forced out
- 22 from the immigration courts.
- 23 78. Scores of judges have been fired, resigned, or retired in the wake of unprecedented
- 24 interference with their independence and quasi-judicial function.
- 25 79. Even where bond hearings are granted, they are conducted in rushed and grossly unfair
- 26 settings. Noncitizens often have difficulties hearing judges or translators through video
- 27 conferences from detention centers, have limited access to counsel to prepare, and
- 28 hearings are conducted rapidly without full consideration of evidence or testimony.
80. Immigration Judges are not given the time or resources to adequately conduct fair bond or

- merits hearings in the detained or non-detained setting.
81. Immigration Judges often cite little or no reasoning in determining that noncitizens are a flight-risk like *the IJ did in this case*. Appeals from Bond decisions take more than 6 months and are unlikely to result in reversal of a judge's finding.
82. The conditions at Eloy Fed CTR Facility (Core Civic) are equivalent or worse than would be expected of a penal detention center. Deadly and Dehumanizing Conditions in the Eloy Detention Center are reported by the Florence Immigrant and Refugee Rights Project. Noncitizens face inedible food, lack of access to counsel, lack of access to internet or legal resources, high prices to purchase supplemental food or to make phone calls, and a host of other well-documented issues.
83. Petitioner's detention does not further any legitimate government interest.

D. Petitioner is suffering irreparable and ongoing harm as a result of unlawful detention

84. Petitioner is being deprived of his liberty without lawful basis or permissible justification. Petitioner is unable to fully participate and assist in preparation of his case to present to the immigration court.
85. Petitioner is unable to work, though having been granted employment authorization by Respondents, and is struggling to support himself and to continue to afford to pay legal fees for attorneys to assist in his case.

VII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

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

1 87. 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 88. 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

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

14 90. 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 refused
 20 to facilitate DHS’s new expedited removal scheme. *Demore*, 538 U.S. at 532–33
 21 (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 pre-custodial hearing or notice)

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

92. Petitioner has a strong liberty interest under the Due Process Clause in not being re-incarcerated after prior release. *See Young v. Harper*, 520 U.S. 143, 146–47 (1997); *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 IJ’s bond determination); *Nadia Cristina DA Rocha Rosado v. Fred Figueroa, Warden, Eloy Det. Ctr.*, 2025 U.S. Dist. LEXIS 156344, *35.

93. 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 the noncitizen poses 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).

94. Petitioner’s re-detention without notice of reasons or a predetention hearing violated due process. Over a year after deciding to release Petitioner from custody, and doing so under Section 1226(a)(B)(2), Respondents have redetained Petitioner without prior notice, a hearing, and without any relevant change in circumstances.

95. 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

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

1 of this Petition as if fully set forth herein.

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

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

6
7 99. Respondents may only detain noncitizens pursuant to specific authority under U.S. law.

8 100. No statutory authority exists authorizing Petitioner's Continued detention
9 under this section is therefore unlawful.

10
11 **VIII. VERIFICATION OF PETITION**

12 101. I, Laxman Adhikari, hereby swear and affirm subject to penalty of perjury,
13 that the contents of this petition are true and correct to the best of my knowledge and
14 based on discussion with Petitioner and review of his electronic record of proceedings
15 maintained by the Immigration Court (EROP).

16
17 **IX. PRAYER FOR RELIEF**

18 Petitioner respectfully requests that this Court:

- 19 1. Assume jurisdiction over this matter;
20 2. Issue a writ of habeas corpus ordering Respondents **to immediately release**
21 Petitioner from custody under no more restrictive conditions than existed at
22 the time immediately before his unlawful rearrest;
23 3. Declare that Petitioner's arrest and detention violate the Due Process Clause
24 of the Fifth Amendment and the Immigration and Nationality Act.
25 4. Enjoin Respondents from detaining Petitioner under § 1226(a) unless his
26 detention is ordered at a custody hearing before a neutral arbiter in which the
27 government bears the burden of proving, by clear and convincing evidence,
28 that Petitioner is a flight risk or danger to the community;
5. Order that Respondents may not arrest Petitioner while INA § 1229a
proceedings are ongoing, including during any direct appeal from dismissal of
proceedings by the IJ absent a material change in circumstances;

1 6. Award Petitioner costs and reasonable attorneys' fees in this action as provided
2 for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and

3 7. Grant such further relief as the Court deems just and proper.

4 Respectfully submitted this 24th Day of March 2026,
5

6 /s/Laxman Adhikari
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