ACQUEST LAW INC
NARESHWAR SINGH VIRDI (293715)
3838-Watt Avenue, F600
Sacramento, CA 95821
Tel. 916-222-2036
Fax: 916-222-2045
Email: nvirdi@acquestlaw.com

Attorneys for Petitioner
Jaskaran Singh

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF CALIFORNIA

SINGH, JASKARAN, an individual,
Petitioner,
v.

PAM BONDI, in her official capacity as Attorney General; MARWAYNE MULLIN, in his official capacity as the Acting Secretary of the Department of Homeland Security; TODD LYONS, in his official capacity as Director of U.S. Immigration and Customs Enforcement; PATRICK DIVVER, in his official capacity as the San Diego Field Office Acting Director, U.S. Immigration and Customs Enforcement and Removal Operations; CHRISTOPHER LAROSE, in his official capacity as the Warden of the Otay Mesa ICE Detention Center; AND DOES 1 through 50, INCLUSIVE,
Defendants.

Case No.: '26CV1985 RSH MMP

PETITION FOR HABEAS CORPUS AND COMPLAINT FOR INJUNCTIVE AND DECLARATIVE RELIEF

IMMIGRATION HABEAS CASE

INTRODUCTION

Petitioner Jaskaran Singh ("Petitioner" or "Jaskaran"), is a citizen of India who is currently housed at the Otay Mesa ICE Detention Center ("OMIDC") since March 5, 2026. He timely filed his Application for Asylum, Withholding of Removal, and Relief under Convention Against Torture, which remains pending at this time.

On March 4, 2026, at what should have been routine morning, Petitioner accompanied

his friend in southern California to a California Superior Court for a hearing. Petitioner was waiting in the car for his friend to finish his hearing in the court. Three (3) Immigration Customs and Enforcement ("ICE") officers approached the vehicle in which the Petitioner was sitting. They enquired about his friend and asked to open the trunk so they could take his stuff. They told Petitioner that they had to take his picture since he had the keys to his friend's vehicle. When enquired, Petitioner honestly told them that he had an asylum pending. At that point, they asked Petitioner to step out of the vehicle and abruptly seized him without a probable cause, without notice, explanation, or any claim of changed circumstances. DHS now asserts that he is subject to mandatory detention under 8 U.S.C. § 1225(b) – a border-processing statute that no longer applies to individuals whom DHS has released, placed in § 240 proceedings, and allowed to reside in the interior for almost two (2) years. Therefore, his detention is not reasonably related to its statutory purpose because Respondents have failed to properly interpret and apply the Immigration and Nationality Act ("INA").

Petitioner respectfully requests that this Court issue a Writ of Habeas Corpus directing Respondents to release him from custody. Specifically, Petitioner requests an order directing his immediate release from custody on his own recognizance or on reasonable, non-monetary conditions of supervision. In the alternative, Petitioner requests an order directing Respondents to provide him with an immediate bond hearing before an Immigration Judge, at which the government must prove by *clear and convincing* evidence that his continued detention is necessary to prevent a risk of flight or a danger to the community.

Petitioner also requests that the Court expedite consideration of this Petition due to his deteriorating health in this continuing, lengthy and unconstitutional detention.

JURISDICTION AND VENUE

1. Petitioner is in the physical custody of the Respondents and U.S. ICE, an agency within the U.S. Department of Homeland Security ("DHS"). He is detained at the Otay Mesa ICE Detention Center in San Diego, California and is under the direct control of Respondents and their agents

2. This Court has jurisdiction over the present action pursuant to 28 U.S C. § 1331, general federal question jurisdiction; 5 U.S.C. §§ 701 et seq , the Administrative Procedure Act ("APA"); Habeas jurisdiction pursuant to 28 U.S.C. § 2241 et seq.; Art I., § 9, Cl. 2 of the United States Constitution (the Suspension Clause); the Constitution of the United States and

the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq ; and the common law. This action arises under the Due Process Clause of the Fifth Amendment of the U.S. Constitution and the INA. 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. § 2001 et seq. and the Writs Act, 28 U.S.C. § 1651.

3. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of DHS conduct. Federal courts are not stripped of jurisdiction under 8 U.S.C. § 1252. See *Zadvydas v. Davis,* 533 U.S. 678, 687 (2001). Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v Rodriguez*, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

4. This Court must have jurisdiction under the Suspension Clause, notwithstanding statutory provisions that otherwise deprive the Courts of jurisdiction over execution of removal orders, to review the actions of the executive branch's enforcement of the immigration laws if those actions violate the Constitution by depriving Petitioner of due process or other constitutional rights. See Suspension Clause with 8 U.S.C. § 1252(g); *Reno v. Am.-Arab Anti-Discrimination Comm* , 525 U.S. 471, 482 (1999); *Thuraissigiam v U S. Department of Homeland Security*, 917 F.3d 1097, 1118-19 (9th Cir. 2019). The Suspension Clause protects the right to the writ of habeas corpus where, as here, no adequate or effective alternative remedy exists. See *Boumediene v. Bush*, 553 U.S. 723 (2008).

5. Venue is proper pursuant to 28 U.S.C. § 1391(e) because Respondents are agencies of the United States or officers or employees thereof acting in their official capacity or under color of legal authority; Petitioner is in the custody of the San Diego Office of the ICE, which is in the jurisdiction of the Southern District of California; and there is no real property involved in this action. See *Braden c. 30th Judicial Circuit Court of Kentucky,* 410 U.S. 484, 493-500 (1973).

PARTIES

6. Petitioner Jaskaran Singh is a citizen of India, who arrived in the United States on or around June 25, 2024. He timely filed his application for asylum, withholding of removal, and relief under convention against torture, which is pending with the Immigration Court. He has

been in the custody of the DHS since March 4, 2026, currently detained at Otay Mesa ICE Detention Center in San Diego, California since March 5, 2026.

7. Respondent Pamela Bondi, the Attorney General, is the highest-ranking official within the Department of Justice ("DOJ"). Respondent Bondi, has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103. Respondent Bondi is sued in her official capacity to the extent that 8 U.S.C. § 1102 gives her authority over immigration law.

8. Respondent Markwayne Mullin, the Acting Secretary of the DHS, is the highest-ranking official within the DHS. Respondent Mullin, by and through his agency for the DHS, is responsible for the implementation of the INA, and for ensuring compliance with applicable federal law. Respondent Mullin is a legal custodian of Petitioner and is sued in his official capacity as an agent of the government of the United States.

9. Respondent Todd Lyons if the acting Director or U.S. ICE. He has authority over the actions of ICE in general. He is also a legal custodian of Petitioner and is sued in his official capacity as an agent of the government of the United States.

10. Respondent Patrick Divver is the Director of the San Diego District Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security. As such, Mr. Divver is Petitioner's immediate custodian and is sued in his official capacity as an agent of the government of the United States.

11. Respondent Christopher LaRose is the warden at the Otay Mesa ICE Detention Center. He is in charge of Petitioner's place of custody and is sued in his official capacity as an agent of the government of the United States.

12. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

13. Respondent U.S. ICE is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

FACTUAL ALLEGATIONS

14. Petitioner, Jaskaran Singh is a native and citizen of India. He has resided continuously in the United States since June 25, 2024.

15. Petitioner first entered the United States on or around June 25, 2024 without inspection.

He has remained in the United States for almost two years.

16. On or around June 25, 2024, DHS issued a Notice to Appear ("NTA") and Petitioner was released from detention under an Order of Release on Own Recognizance ("ROR").

17. After his release, Petitioner moved to 2820 Rose Avenue, Apt 12, San Jose, CA 95127.

18. On July 16, 2024, Petitioner timely filed his Form I-589.

19. On or around November 26, 2025 around 5:00 AM, Petitioner was driving a commercial semi-truck in Pomona, California after completing a load delivery. While navigating a right turn, a car came in-front of the semi, causing Petitioner to make a sharp right turn to avoid collision. This caused the tire of the trailer to climb on the curb. Petitioner's co-driver, who was sleeping at the time, woke up and enquired. See Exhibit C – *Declaration of Harsh Kumar Dhanda.* They decided to stop the truck and put their blinkers on. At this time, they noticed a Police motorcycle attempting to stop them. Because they were on a single lane road, they found a safe shoulder to stop approximately 100 feet away and pulled over. Id. When police officer enquired about the reason for his traffic stop, they replied that maybe they were on a non-truck route by mistake. The officer told them that they had hit a light while turning, and failed to stop. Petitioner apologized and told the officer that he was not aware that he had hit a light. Officer asked for Jaskaran's driver's license and came back and told Jaskaran that he had an outstanding warrant in Indiana. See Exhibit B – *Declaration of Jaskaran Singh.* Jaskaran told the officer that he had never been to Indiana so how was it possible that a warrant existed in Indiana. Id. Nonetheless, the officer arrested Jaskaran. See Exhibit C. Once Jaskaran was fingerprinted in Pomona Jail, it was determined that the Indiana warrant was for someone else. Id. As a result, Jaskaran was released after 2-3 hours. The traffic violation matter remains pending at this time. No charges have been filed. The City of La Verne Police Department has not forwarded the citation to the Los Angeles District Attorneys Office Intake Unit or to the Superior Court of California, County of Los Angeles. Id.

20. Petitioner was issued citation with California Vehicle Code § 20002(a). See Exhibit D – *Copy of Citation and Booking Record.* Petitioner believes this citation is not sustained by the facts provided above. However, even if the facts supported this citation, the elements of § 20002(a) do not have an element of fraud, malice, depraved mind, vicious motive, corrupt mind, or *malum in se* (morally reprehensible or intrinsically wrong conduct). See Exhibit E. In 2010, the Fifth Circuit, in *Orosco v. Holder,* held that § 20002(a) does not involve any conduct

that can be deemed a CIMT [Crime Involving Moral Turpitude]. See *Hugo Romeo Orosco v. Eric H Holder, Jr*, 396 F. App'x 50, 52 (5th Cir. 2010) (Exhibit F). The Ninth Circuit also held that Violations of Cal. Vehicle Code § 20002 do not categorically involve moral turpitude. See *Serrano-Castillo v. Mukasey*, 263 Fed.Appx. 625 (9th Cir. 2008).

21. At the time of his arrest on March 4, 2026, Jaskaran was visiting his friends in Southern California. He accompanied his friend to a hearing scheduled in the Superior Court of California in Encinitas, California. Petitioner was waiting in the car for his friend to finish his hearing in the court.

22. Unfortunately, on what should have been routine morning, three (3) Immigration Customs and Enforcement ("ICE") officers approached the vehicle in which the Petitioner was sitting. They enquired about his friend and asked to open the trunk so they could take his stuff. They told Petitioner that they had to take his picture since he had the keys to his friend's vehicle.

23. When they enquired, Petitioner honestly told them that he had an asylum pending. At that point, they asked Petitioner to step out of the vehicle and abruptly seized him without a probable cause, without notice, explanation, or any claim of changed circumstances.

24. After keeping him in San Diego ICE office overnight, ICE officers transferred Petitioner to the Otay Mesa ICE Detention Center, away from his home and support network-uprooting him from the life he had built and the community structures he relied upon.

25. Petitioner has no gang association. Except for the arrest by Customs and Border Protection ("CBP") in 2024 (at the time of initial entry), his arrest for the alleged traffic violation, and the latest arrest by ICE, Petitioner has never been arrested by any other law enforcement agency in the United States or anywhere else.

26. Jaskaran did not come into ICE custody following a criminal arrest.

27. Conditions in ICE custody have caused Petitioner severe physical and emotional strain. Detained individuals at the Otay Mesa ICE Processing Center have reported chronically cold temperatures, inadequate clothing and bedding, prolonged isolation, sanitation deficiencies, and significant barriers to medical care. Petitioner has experienced these same conditions, which directly exacerbate his symptoms-worsening his headaches, chest pain, respiratory difficulties, sleep disruption, anxiety, and depression. Detention has disrupted his medical care,

destabilized his asylum preparation, and inflicted harm far disproportionate to any legitimate purpose of civil immigration custody.

28. The abruptness of his seizure, after almost two years of full compliance, has devastated the stability he painstakingly built in the United States.

29. Petitioner has been deprived of liberty since his warrantless seizure in Encinitas, California on March 4, 2026 despite a (1) pending claim for asylum, withholding of removal, and relief under convention against torture; and (2) absence of any criminal conviction or immigration-law violation that would justify detention or removal.

30. The background checks conducted by ICE and CBP show that NGI, NCIC, and TECS checks were negative.

LEGAL FRAMEWORK

DUE PROCESS CLAUSE

31. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, "[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* at 690.

32. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have been convicted or admitted to certain crimes are subject to mandatory detention. *See id.* § 1226(c).

33. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, Id. § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

34. Since the Supreme Court's *Jennings v Rodriguez*, 138 S. Ct. 830 (2018) decision, the Ninth Circuit has expressed "grave doubt" that "any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).

35. To guarantee against such arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

36. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.; Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.

37. As a result, where the government detains a noncitizen for a prolonged period or where the noncitizen pursues a substantial defense to removal or claim to relief, due process requires an individualized hearing before a neutral decisionmaker to determine whether detention remains reasonably related to its purpose. *Demore*, 538 U.S. at 532 (Kennedy, J., concurring) (stating that an "individualized determination as to [a noncitizen's] risk of flight and dangerousness" may be warranted "if the continued detention became unreasonable or unjustified"); cf. *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (detention beyond the "initial commitment" requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (noting that "lesser safeguards may be appropriate" for "short-term confinement"); *Hutto v Finney*, 437 U.S. 678, 685-86 (1978) (observing, in Eighth Amendment context, that "the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards").

38. Courts have found that automatic detention pending appeal "after a judicial officer has determined that release is appropriate," where the government has made no "showing of dangerousness or flight risk," "renders the continued detention arbitrary" and "raises a substantial Fifth Amendment claim." *Mohammed H. v. Trump*, 781 F. Supp. 3d 886, 895 (D. Minn. 2025). Whilst this case is in the context of the automated stay of bond on appeal, the same reasoning applies here: "... no special justification exists that outweighs the individual's constitutionally protected interest in avoiding physical restraint . . ." *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1077 (N.D. Cal. 2004).

39. Courts that apply a reasonableness test have considered three main factors in determining whether prolonged detention is reasonable. First, courts have evaluated whether the noncitizen

has raised a "good faith" challenge to removal—that is, the challenge is "legitimately raised" and presents "real issues." *Chavez-Alvarez v. Warden York Cty. Prison*, 783 F.3d 469, 476 (3d Cir. 2015). Second, reasonableness is a "function of the length of the detention," with detention presumptively unreasonable if it lasts six months to a year. *Id.* at 477-78, *accord Sopo*, 825 F.3d at 1217-18. Third, courts consider the likelihood that detention will continue pending future proceedings. *Chavez-Alvarez*, 783 F.3d at 478 (finding detention unreasonable after ninth months of detention, when the parties could "have reasonably predicted that Chavez-Alvarez's appeal would take a substantial amount of time, making his already lengthy detention considerably longer"); *Sopo*, 825 F.3d at 128; *Reid*, 819 F.3d at 500.

40. Due process also requires certain minimal procedures at bond hearings. First, the government must bear the burden of proof by *clear and convincing* evidence to justify continued detention. Second, the decisionmaker must consider available alternatives to detention. Finally, if the government cannot meet its burden, a decisionmaker must assess a noncitizen's ability to pay a bond when determining the appropriate conditions of release.

41. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011). The same is true for other contexts in which the Supreme Court has permitted civil detention; in those cases, the Court has relied on the fact that the government bore the burden of proof at least by *clear and convincing* evidence. *See United States v Salerno*, 481 U.S. 739, 750, 752 (1987) (upholding pre-trial detention where the detainee was afforded a "full-blown adversary hearing," requiring "clear and convincing evidence" before a "neutral decisionmaker"); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (striking down civil detention scheme that placed burden on the detainee); *Zadvydas*, 533 U.S. at 692 (finding post-final-order custody review procedures deficient because, *inter alia*, they placed burden on detainee); see also *Padilla v. Immigration & Customs Enf't*, 379 F. Supp. 3d 1170 (W.D. Wash. 2019) (requiring the government to bear the burden of proof for class members who receive bond hearings after being found to have a credible fear of persecution or torture); *Banda v McAleenan*, 385 F. Supp. 3d 1120-21 (in case of arriving asylum seeker, government must bear burden of proof to justify continued detention after noncitizen had been detained for more than 18 months).

42. The requirement that the government bear the burden of proof by *clear and convincing* evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

43. First, incarceration deprives noncitizens of a "profound" liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92; *see also Foucha*, 504 U.S. at 80 ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted).

44. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding" including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing. *See infra* ¶ 66.

45. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen's immigration records and other information that it can use to make its case for continued detention.

46. In light of these considerations, "[t]he overwhelming majority of courts to consider the question . . . have **concluded that imposing a clear and convincing standard would be most consistent with due process.**" *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

47. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty is paramount; the Government's blanket detention policy under *Yajure Hurtado* (since overruled in this District) creates an extreme risk of erroneous deprivation by denying him any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means. Accordingly, due process requires an individualized bond hearing under § 1226(a).

48. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance

during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). It follows those alternatives to detention must be considered in determining whether prolonged incarceration is warranted.

49. Due process likewise requires consideration of a noncitizen's ability to pay a bond. "Detention of an indigent 'for inability to post money bail' is impermissible if the individual's 'appearance at trial could reasonably be assured by one of the alternate forms of release.'" *Id.* at 990 (quoting *Pugh v Rainwater*, 572 F.2d 1053, 1058 (5th Cir. 1978) (en banc)). As a result, in determining the appropriate conditions of release for immigration detainees, due process requires "consideration of financial circumstances and alternative conditions of release" to prevent against detention based on poverty. *Id.*

50. Evidence about immigration detention and the adjudication of removal cases provide further support for the due process right to a bond hearing in cases of prolonged detention.

51. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez*, 783 F.3d at 478; *Ngo v INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo*, 825 F.3d at 1218, 1221. "And in some cases[,] the conditions of their confinement are inappropriately poor " *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

52. These conditions and obstacles only further underscore the serious due process concerns that prolonged immigration detention pose for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding continued detention.

53. Here, the Respondents can neither show that the continued detention of petitioner following his arrest in March 2026 is reasonably related to the original purpose and the *Mathews* tests are satisfied. Similarly, no procedural safeguards are offered to those who remain in custody pending an appeal of a decision on termination of removal proceedings.

54. Courts have ruled that automatically stayed release from detention is a violation of the Fifth Amendment. *See Mohammed H. v. Trump,* 781 F. Supp. 3d 886, 895 (D. Minn. 2025) (finding that it "does not require any showing of dangerousness or flight risk. Nor is it subject to immediate review by an immigration judge. It operates by fiat and has the effect of prolonging detention even after a judicial officer has determined that release on bond is appropriate. That mechanism's operation here—in the absence of any individualized justification—renders the continued detention arbitrary as applied. Cf. *Zadvydas*, 533 U.S. at 699–700, 121 S Ct. 2491 (recognizing that removal must be reasonably foreseeable for continued post-removal detention to remain reasonable); *Bridges*, 326 U.S. 135, 152–53, 65 S.Ct. 1443 (administrative rules are designed to afford due process and to serve as "safeguards against essentially unfair procedures"). Without introducing evidence, the Government has wholly deprived Petitioner of notice and the chance to rebut its case for continued detention. *Mathews*, 424 U.S. at 348–49, 96 S.Ct. 893 ("The essence of due process is the requirement that a person in jeopardy of serious loss (be given) notice of the case against him and opportunity to meet it.").

8 USC 1225 v 1226

55. Full removal proceedings under 8 U.S.C. § 1229a are "the standard mechanism for removing inadmissible noncitizens." *Make the Rd. N.Y. v. Noem*, No. 25-cv-190 (JMC), 2025 WL 2494908, at *2 (D.D.C. Aug. 29, 2025); *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020) ("The usual removal process involves an evidentiary hearing before an immigration judge, and at that hearing an alien may attempt to show that he or she should not be removed."). These proceedings are initiated by serving the noncitizen with a Form I-862 "notice to appear" in immigration court. 8 U.S.C. § 1229(a)(1).

56. Full removal proceedings "take place before an [immigration judge ("IJ")], an employee of the Department of Justice (DOJ) who must be a licensed attorney and has a duty to develop the record in cases before them." *Coal. for Humane Immigrant Rts. v. Noem*, No. 25-cv-872 (JMC), — F.Supp.3d —, —, 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025) (citing 8 U.S.C. § 1229a(a)(1), (b)(1)).

57. In full removal proceedings, noncitizens have rights to hire counsel, to a reasonable opportunity to examine evidence against them, to present evidence on their own behalf, and to cross-examine any government witnesses. 8 U.S.C. § 1229a(b)(4)(A)–(B). "[D]ue to the built in procedures," full removal proceedings "typically take[ ] place over the course of multiple hearings," which "allows time for noncitizens to both gather evidence in support of petitions for relief available in immigration court ... and seek collateral relief from other components of [the Department of Homeland Security ("DHS")]." *Coal. for Humane Immigrant Rts*, — F.Supp.3d at —, 2025 WL 2192986, at *3.

58. Accordingly, "[w]hen a person is apprehended under § 1226(a), an ICE officer makes the initial custody determination." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022) (citing 8 C.F.R. § 236.1(c)(8)). If the detainee disagrees with the officer's determination, they "may request a bond hearing before an IJ at any time before a removal order becomes final." *Id.* at 1197 (citing 8 C.F.R. §§ 236.1(d)(1), 1003.19). The procedural posture progresses and the detainee must then "establish to the satisfaction of the Immigration Judge . . . that he or she does not present a danger to persons or property, is not a threat to the national security, and does not pose a risk of flight." *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017) (quoting *In re Guerra*, 24 I. & N. Dec. 37, 38 (B.I.A. 2006)). Appeal on an adverse decision is available with the BIA. *Id.* at 983 (citing § 236.1(d)(3)).

59. 8 U.S.C. § 1225 enumerates the procedures allowing the government to detain (mandatory detention) certain "applicants for admission." Under § 1225, an "applicant for admission" is a noncitizen "present in the United States who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). INA § 1225(b)(1) authorizes expedited removal for certain "applicants for admission" in two categories. First, noncitizens "arriving in the United States" that are determined by an immigration officer to be inadmissible due to misrepresentation or failure to meet documents requirements. *Id.* at § 1225(b)(1)(A)(i); *see*

also id at § 1182(a)(6)(C), (a)(7). Second, noncitizens that (a) are inadmissible because of misrepresentation or failure to meet documents requirements; (b) have not "been admitted or paroled into the United States"; (c) have not "affirmatively shown, to the satisfaction of an immigration officer, that [they have] been physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility"; and (d) have been designated by the Attorney General for expedited removal. *Id.* at § 1225(b)(1)(A)(iii).

60. 8 U.S.C. § 1226 "provides the general process for arresting and detaining aliens who are present in the United States and eligible for removal." *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022). The provision "distinguishes between two different categories" of noncitizens. *Jennings*, 583 U.S.

61. These two categories of noncitizens subject to § 1225(b)(1) are subject to mandatory detention "until certain proceedings have concluded." *Jennings*, 583 U.S. at 297. Individuals that fall into § 1225(b)(1) are "normally ordered removed 'without further hearing or review' pursuant to an expedited removal process" unless claiming asylum or a fear of persecution. *Jennings,* 53 U.S. at 287 (first quoting § 1225(b)(1)(A)(i); then citing § 12(b)(1)(A)(ii)).

62. Noncitizens who are "seeking admission" and not covered by the expedited removal provisions in § 1225(b)(1) are subject to § 1225(b)(2). *See Id.* At 287. This category would include, for example, noncitizens who are arriving in the United States, seek admission, and are inadmissible for some reason other than misrepresentation or failure to meet documents requirements. *See* 8 U.S C. § 1182(a)(2)–(3). Subject to limited exceptions, the § provides that such noncitizens "shall be detained" for full removal proceedings under § 1229a "if the examining immigration officer determines" that the noncitizen "is not clearly and beyond a doubt entitled to be admitted." *Id.* at § 1225(b)(2)(A).

63. Under § 1226(a), the "default rule," *Id* , a noncitizen "may be arrested and detained" "[o]n a warrant issued by the Attorney General" if their removal proceedings are pending, 8 U.S.C. § 1226(a) **Detention pursuant to § 1226(a) is not mandatory. If the noncitizen was not convicted of certain criminal offenses enumerated in § 1226(c), the government has discretion to release them on "bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or ...**

conditional parole." *Id.* at § 1226(a)(2)(A)–(B).

64. Until this year, DHS has applied § 1226(a) and its discretionary release and review of detention "to the vast majority of noncitizens allegedly in this country without valid documentation"—a practice codified by regulation. *Salcedo Aceros,* 2025 WL 2737503, at *3.

65. The Government now contends that mandatory detention under § 1225 is the appropriate detention authority for noncitizens, such as petitioner, who have not been admitted or paroled. *See Rodriguez Vasquez v Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (citing *Torres v Barr*, 976 F.3d 918, 928 (9th Cir. 2020)).

66. In recent weeks, several district courts have held that the Government's new, and more expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect on the basis that this reading of the statute would render 1226(c) inoperable or moot. *See*, e.g., *Rodriguez Vasquez v. Bostock, et al.* 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).

67. Petitioner argues any appeal to the Immigration Judge or the Board of Immigration Appeals would be futile considering a September 5, 2025, BIA decision where the BIA adopted DHS' interpretation of the INA as mandating detention without bond for millions of noncitizens who reside in the U.S. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA's decision held that immigration judges lack jurisdiction to hold bond hearings or grant bond to all individuals charged with entering the country without inspection. *Id* Though this was overruled, DHS has appealed the District Court decision thereby exposing its intent to keep individuals like the Petitioner incarcerated.

68. The Court should find administrative exhaustion would be futile. *See Vasquez-Rodriguez v Garland*, 7 F.4th 888, 896 (9th Cir. 2021) ("where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required."). BIA decisions are binding on immigration judges, and *Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like petitioner to hold a custody redetermination hearing. Therefore, judicial intervention enjoining Respondents from preventing petitioner from having a bond hearing pursuant to the holding in *Hurtado* is necessary to enable petitioner to avail himself of his administrative remedies.

69. Therefore, the Court should consider the merits of the Petition.

CLAIM FOR RELIEF

Violation of 8 U.S C. § 1226(a) Unlawful Denial of Bond Hearings

70. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

71. The mandatory detention provision at 8 U.S C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

72. Nonetheless, the Otay Mesa Immigration Court IJs have a policy and practice of applying § 1225(b)(2) to individuals like the Petitioner.

73. The application of § 1225(b)(2) to Petitioner violates the Immigration and Nationality Act.

Violation of the Administrative Procedure Act Unlawful Denial of Bond

74. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

75. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

76. Nonetheless, the Otay Mesa Immigration Court IJs have a policy and practice of applying § 1225(b)(2) to individuals similarly situated as the Petitioner.

77. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

Unconstitutional Detention in Violation of the Fifth Amendment

78. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the] Clause protects." *Zadvydas v.*

Davis, 533 U.S. 678, 690 (2001).

79. Civil immigration detention is only permissible where it bears a "reasonable relation to the purpose for which the individual was committed." *Jackson v Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v Kim*, 538 U.S. 510, 528 (2003).

80. Neither community protection nor flight risk applies to the Petitioner, and therefore, the detention no longer bears a reasonable relation to the purpose for which it was committed. *See Jackson v Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Petitioner's removal proceedings are ongoing.

81. These cumulative actions render his detention even more constitutionally suspect, as they reflect punitive conduct rather than civil processing

82. Accordingly, Petitioner's continued detention, in the absence of removal authority and contrary to DHS's own findings, constitutes a deprivation of liberty without due process of law. The Court should order his release.

Unlawful Detention in Violation of Respondents' Own Regulatory Provisions

83. Petitioner is entitled to relief because Respondents have failed to comply with their own regulations and have acted in an arbitrary manner. First, Respondents failed to provide Petitioner, who is on ROR, with a written notice of custody determination explaining the basis for his re-detention. 8 C.F.R. § 1236.1(g) provides for the issuance of a Form I-286, Notice of Custody Determination, to inform an alien of the reasons for their detention. Petitioner attests that he has never received such a notice or any other record explaining why, after more than two years of perfect compliance, he was suddenly re-arrested Under the holding of *Moallin v Cangemi*, this failure to follow established, mandatory custody-determination procedures render Respondents' actions arbitrary, deprives Petitioner of a meaningful opportunity to challenge the basis for his confinement, and supports habeas relief. See *Moallin v. Cangemi*, 427 F. Supp. 2d 908, 920–22 (D. Minn. 2006) (holding that detention of an alien, which fails to adhere to binding, required custody-review regulations, is not in accordance with the law).

84. The arbitrary nature of Petitioner's confinement and failure to follow mandatory and established procedures of custody-determination underscores the fact that Respondents'

revocation of Petitioner's prior release and continued detention are unlawful. Therefore, Petitioner is entitled to habeas relief constituting his immediate release from the unlawful and continuing detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;

2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;

3. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

4. Issue a Writ of Habeas Corpus ordering the Respondents to release Petitioner from custody; hold a hearing if warranted; determine that Jaskaran's detention is not justified because the government has not established by *clear and convincing* evidence that he presents a risk of flight or a danger to the community in light of the available alternatives;

5. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;

6. Declare that Jaskaran's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;

7. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C.§§ 702 and 706, as arbitrary, capricious, and not in accordance with law;

8. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Jaskaran an individualized bond hearing before an impartial immigration judge within 14 days, at which the government bears the burden to justify continued detention by clear and convincing evidence;

9. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

///

///

10. Grant such other and further relief as the Court deems just and proper.

Dated: March 27, 2026

ACQUEST LAW

/s/ Nareshwar Singh Virdi
Nareshwar S. Virdi
Acquest Law Inc.
Attorneys for the Petitioner
Jaskaran Singh

EXHIBIT LIST

Exhibit A:	Copy of the Form I-589 – Application for Asylum, Withholding of Removal, and Relief under the Convention Against Torture
Exhibit B:	Declaration of Jaskaran Singh
Exhibit C:	Declaration of Harsh Kumar Dhanda
Exhibit D:	Copy of Traffic Citation and Booking Record.
Exhibit E:	2025 California Vehicle Code Section 20002.
Exhibit F:	U.S. Court of Appeals for the Fifth Circuit Decision in *Hugo Romero Orosco v Eric H. Holder, Jr , U S Attorney General.*
Exhibit G:	Documents of US citizen friend