

1 However, Respondents improperly seek to limit the remedy to a bond hearing pursuant to 8
2 U.S.C. § 1226(a).

3 Respondents' proposed remedy is inadequate and contrary to law. Petitioner was
4 unlawfully re-detained without notice, process, or any change in circumstances after nearly two
5 years of compliant release within the community. The government's after-the-fact attempt to
6 justify this re-detention under the inapplicable mandatory detention statute, 8 U.S.C. § 1225(b),
7 has been conceded as legally unsupported in this District. Because the re-detention itself was
8 arbitrary and unlawful from its inception, the only appropriate and constitutionally adequate
9 remedy is to restore the status quo prior to the unlawful seizure. A bond hearing is insufficient
10 to remedy the government's unlawful conduct. Accordingly, Petitioner requests that this Court
11 reject Respondents' proposed limited remedy and issue an order for his immediate release from
12 custody.

12 PROCEDURAL BACKGROUND

13 Petitioner Jaskaran Singh was taken into custody by the Department of Homeland
14 Security ("DHS") upon his entry to the United States on June 25, 2024, and on the same day
15 was issued a Notice to Appear ("NTA") and released on his own recognizance ("ROR")
16 pursuant to 8 U.S.C. § 1226(a). For nearly two years, Petitioner lived freely and complied with
17 all conditions of his release.

18 On March 4, 2026, Immigration and Customs Enforcement ("ICE") officers re-arrested
19 Petitioner without a warrant, notice, or any claim of changed circumstances. He has since been
20 detained at the Otay Mesa ICE Detention Center. Respondents now assert that Petitioner is
21 subject to mandatory detention under 8 U.S.C. § 1225(b), a statutory provision governing
22 arriving aliens at the border.

23 On March 27, 2026, Petitioner filed a Petition for Writ of Habeas Corpus and a Motion
24 for a Temporary Restraining Order, challenging his re-detention as a violation of the
25 Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process
26 Clause of the Fifth Amendment. The Petition seeks an order for Petitioner's immediate release
27 from custody or, alternatively, an order compelling Respondents to provide him with an
28 individualized bond hearing before an Immigration Judge

Respondents filed their Response to the Petition on April 7, 2026. In their filing,
Respondents concede that this Court's prior decisions on "the same and/or similar facts" are

1 controlling and, on that basis, state that they “do not oppose the petition”. Despite this
2 concession, Respondents contend that the “appropriate remedy is a bond hearing pursuant to 8
3 U.S.C. §1226(a),” thereby opposing Petitioner’s primary request for immediate release from
4 unlawful custody. This filing constitutes Petitioner’s opposition to Respondents’ attempt to
5 limit the available remedy.

6 **STATEMENT OF FACTS**

7 Petitioner Jaskaran Singh, a native and citizen of India, entered the United States on June
8 25, 2024. On that same day, the Department of Homeland Security (“DHS”) issued a Notice to
9 Appear (“NTA”), placed him in full removal proceedings under 8 U.S.C. § 1229a, and released
10 him on his own recognizance (“ROR”) pursuant to 8 U.S.C. § 1226(a) after determining he was
11 not a flight risk or danger to the community.

12 Following his release, Petitioner resided continuously and openly in the United States for
13 nearly two years. During this time, he established a stable life, maintained gainful employment,
14 and developed strong community ties. He fully complied with all conditions of his release,
15 attending every required check-in with Immigration and Customs Enforcement (“ICE”) and
16 keeping the agency apprised of his address. On July 16, 2024, he timely filed his application for
17 asylum, withholding of removal, and protection under the Convention Against Torture, which
18 remains pending. Petitioner has no criminal convictions, and background checks conducted by
19 both ICE and Customs and Border Protection (“CBP”) have returned negative results.

20 On November 26, 2025, Petitioner was arrested during a traffic stop due to a mistaken
21 belief that he had an outstanding warrant in Indiana. After fingerprinting confirmed the warrant
22 was for another individual, he was released within a few hours. A traffic citation was issued, but
23 no criminal charges have been filed.

24 On March 4, 2026, while Petitioner was waiting in a parked car for a friend in Encinitas,
25 California, three ICE officers approached him. When the officers inquired about his
26 immigration status, Petitioner truthfully stated that he had a pending asylum case. The officers
27 immediately seized him without a warrant, notice, or explanation of any changed circumstances
28 justifying the arrest. He was not taken into custody following a criminal arrest. After being held
overnight at a San Diego ICE office, he was transferred to the Otay Mesa ICE Detention Center,
where he remains.

1 nearly two years after being affirmatively released into the interior under 8 U.S.C. § 1226(a).
2 Detention without a valid statutory basis is void *ab initio*, and the only proper remedy is
3 immediate release.

4 Section 1225 governs the inspection and detention of “applicants for admission” who are
5 “arriving in the United States”. Petitioner is not an “applicant for admission” who was just
6 arriving. He was released on his own recognizance nearly two years ago and placed into full
7 removal proceedings under 8 U.S.C. § 1229a. By the government’s own initial actions,
8 Petitioner’s custody status has always been governed by § 1226, the provision for arresting and
9 detaining noncitizens *pending* a decision on removal. Respondents’ recent attempt to
10 retroactively reclassify Petitioner under § 1225(b) is an impermissible statutory “track-
11 switching” that numerous courts have rejected as contrary to the plain language and structure
12 of the Immigration and Nationality Act.

13 Since the government lacks any statutory authority for its actions, Petitioner’s detention
14 is fundamentally unlawful. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court
15 affirmed that immigration detention is permissible only where authorized by statute, and that
16 such statutes must be interpreted to avoid “serious constitutional problem[s]”. To detain an
17 individual based on a statute that plainly does not apply is to detain him without any authority
18 at all. The remedy for detention without legal authority is not a hearing to determine if a
19 different legal authority might apply; it is to end the unlawful confinement. A bond hearing
20 under § 1226(a) presupposes a lawful detention under that same statute. It cannot be used to
21 retroactively sanitize a detention that was illegal from the moment it began. The Court should
22 order Petitioner’s immediate release.

23 **C. A BOND HEARING IS AN INADEQUATE REMEDY FOR RESPONDENTS’**
24 **VIOLATION OF PETITIONER’S DUE PROCESS RIGHTS.**

25 Independent of the statutory violation, Petitioner’s re-detention violated his Fifth
26 Amendment right to due process, and a mere bond hearing is insufficient to cure this
27 constitutional injury. The government deprived Petitioner of a significant, protected liberty
28 interest without notice, without a hearing, and without any change in circumstances that would
justify such a drastic action.

After nearly two years of liberty, during which he fully complied with all conditions of
release, Petitioner developed a constitutionally protected interest in his continued freedom. As

1 the Supreme Court recognized in *Morrissey v. Brewer*, 408 U.S. 471 (1972), even conditional
2 liberty “includes many of the core values of unqualified liberty and its termination inflicts a
3 ‘grievous loss’” that cannot be imposed without due process. Respondents abruptly seized
4 Petitioner without any pre-deprivation process, seizing him from a car and incarcerating him
5 without explanation. This summary seizure, devoid of any procedural safeguards, is a textbook
6 violation of the procedural due process principles articulated in *Mathews v. Eldridge*, 424 U.S.
319 (1976).

7 Furthermore, the re-detention violates substantive due process because it is not
8 “reasonably related to a legitimate governmental purpose”. The only legitimate purposes for
9 civil immigration detention are to prevent flight risk and danger to the community. The
10 government already determined Petitioner was neither when it released him on his own
11 recognizance in 2024. In the intervening period, Petitioner’s conduct has been exemplary, with
12 perfect compliance and increasing community stability. There has been no material change in
13 circumstances to justify revoking his release. Detaining him now, without any individualized
justification, is arbitrary and punitive, rendering the detention unconstitutional.

14 A bond hearing is not a cure for these violations. The constitutional harm was the
15 unlawful seizure and deprivation of liberty itself. A forward-looking hearing to assess current
16 flight and danger risk does not retroactively justify the government’s past unconstitutional
17 conduct. Allowing Respondents to remedy their due process violation with a simple bond
18 hearing would create a perverse incentive, permitting the government to arbitrarily seize and
19 detain individuals at will, knowing the only consequence is a hearing they should have
20 provided in the first place, if at all. The only way to meaningfully redress the constitutional
21 violation and deter future misconduct is to restore the status quo ante—Petitioner’s freedom.
He must be released immediately.

22 D. IMMEDIATE RELEASE IS THE ONLY REMEDY THAT RESTORES THE STATUS
23 QUO AND VINDICATES PETITIONER’S RIGHTS.

24 Respondents’ proposal of a bond hearing is an attempt to secure a second bite at the
25 apple after conceding that their initial detention was unlawful. This approach disregards the
26 irreparable harm Petitioner suffers with each passing day of his unlawful confinement and fails
27 to restore him to the position he was in before Respondents violated his rights. The conditions
at the Otay Mesa ICE Detention Center have exacerbated Petitioner’s physical and mental
28

1 health issues, disrupted his ability to prepare his asylum case, and severed him from his
2 community. These harms are ongoing and cannot be undone by a future hearing.

3 The proper remedy for an unconstitutional seizure and detention is not to provide the
4 process that should have occurred later; it is to nullify the illegal act itself. Because Petitioner's
5 re-detention was unlawful under the INA and the Due Process Clause from the moment it
6 occurred, the only just remedy is his immediate release. This would restore him to the legal
7 status he rightfully held prior to his seizure on March 4, 2026: a noncitizen released on his own
8 recognizance pending the adjudication of his asylum claim. To do anything less would be to
9 condone the government's unlawful conduct and leave the constitutional injury unredressed.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, WHEREFORE, Petitioner respectfully requests that the Court enter an
12 order:

- 13 1. Granting the Petition for Writ of Habeas Corpus;
- 14 2. Rejecting Respondents' proposed limited remedy of a bond hearing as inadequate to
15 redress the statutory and constitutional violations;
- 16 3. Issuing a Writ of Habeas Corpus directing Respondents to immediately release
17 Petitioner from custody and restore him to the status of release on his own recognizance
18 that he held prior to his unlawful seizure on March 4, 2026;
- 19 4. Enjoining Respondents from re-arresting or re-detaining Petitioner unless they can
20 demonstrate, at a pre-deprivation hearing before a neutral adjudicator, a material change in
21 circumstances justifying detention by clear and convincing evidence;
- 22 5. Awarding Petitioner reasonable attorneys' fees and costs pursuant to the Equal
23 Access to Justice Act, 28 U.S.C. § 2412; and
- 24 6. Granting such other and further relief as this Court deems just and proper.

25 Dated: April 7, 2026

ACQUEST LAW

26 /s/ Nareshwar Singh Virdi
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