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7 **IN THE UNITED STATES DISTRICT COURT**
8 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

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ROHIT ROHIT,

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Petitioner,

Case No. '26CV2194 TWR DDL

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v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

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WARDEN, Imperial Regional Detention
Facility, **FIELD OFFICE**
13 **DIRECTOR**, San Diego Field Office, U.S.
Immigration and Customs Enforcement
14 (ICE); **TODD M. LYONS**, in his official
capacity as Acting Director of U.S.
15 Immigration and Customs Enforcement
(ICE); **MARKWAYNE MULLIN**, in his
16 official capacity as Secretary of the U.S.
Department of Homeland Security (DHS);
17 **TODD BLANCHE**, in his official capacity
as Acting Attorney General of the United
18 States,

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Respondents.

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1 I. INTRODUCTION

2 Petitioner Rohit Rohit brings this petition for a writ of habeas corpus pursuant to 28 U.S.C. §
3 2241 to remedy his ongoing unlawful custody and restraint on liberty by Respondents. Petitioner
4 is in the physical custody of Respondents at Imperial Regional Detention Facility located in
5 California. He now faces unlawful detention because the Department of Homeland Security
6 (DHS) and the Executive Office for Immigration Review (EOIR) have not given him a pre-
7 deprivation hearing before taking away his liberty interest.

8 Petitioner entered the United States on February 11, 2022, at or near San Luis, AZ. He was
9 apprehended shortly after his entry but was released on or about February of 2022, for the
10 purpose of continuing his removal proceedings. At the time of his release, Petitioner was deemed
11 not subject to mandatory detention. Petitioner was re-arrested by ICE on or about March 2, 2026.
12 Petitioner, while stopped at a truck stop located in Ontario, California, was confronted by ICE
13 officers who detained him and took him to Imperial Regional Detention Facility. Petitioner
14 remains in custody without a constitutionally adequate custody determination by a neutral
15 decisionmaker.

16 Before re-detaining him on or about March 2, 2026, Respondents did not provide Petitioner
17 with any written notice explaining the basis for the revocation of his release. Nor did they
18 provide a hearing before a neutral decision maker where ICE was required to justify the basis for
19 re-detention or explain why Petitioner is a flight risk or danger to the community.

20 Petitioner has been in ICE custody since about March 2, 2026. Petitioner remains detained
21 without a lawful statutory basis, without bond eligibility, and without any procedural
22 endpoint. His physical detention and the associated restraints on liberty constitute “custody” for
23 habeas purposes. Removal proceedings remain pending, no final order of removal exists, and
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1 ICE has never afforded Petitioner a neutral custody redetermination hearing. As a result,
2 Petitioner's continued detention violates due process and exceeds ICE's lawful authority.

3 Consequently, Petitioner is trapped in custody with no available administrative mechanism
4 for release, leaving habeas corpus as his only avenue for relief. With absent intervention by this
5 Court, Petitioner's detention will continue indefinitely. This detention is arbitrary, unlawful, and
6 unconstitutional.

7 Petitioner respectfully requests that the Court terminate his unlawful detention and restraints
8 and order his immediate release.

9 10 **II. JURISDICTION**

11 This action arises under the Constitution of the United States, the Immigration and
12 Nationality Act (INA), 8 U.S.C. § 1101, et seq., and the habeas corpus statutes, 28 U.S.C. §
13 2241, et seq. 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
14 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
15 Constitution (Suspension Clause).

16 This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the
17 Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All-Writs Act, 28 U.S.C. § 1651.

18 **III. VENUE**

19 Venue is proper because Petitioner is in Respondents' custody at the Imperial Regional
20 Detention Facility. Pursuant to *Braden v. 30th Judicial Circuit Court of California*, 410 U.S.
21 484, 493–500 (1973), venue lies in the judicial district in which the Petitioner is currently is in
22 custody.

1 Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents
2 are employees, officers, and agencies of the United States, and because a substantial part of the
3 events or omissions giving rise to the claims occurred in the Southern District of California.

4 **IV. REQUIREMENTS OF 28 U.S.C. §§ 2241 AND 2243**

5 The Court must grant the petition for writ of habeas corpus or issue an order to show cause
6 (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. §
7 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days
8 unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

9 Habeas corpus is “perhaps the most important writ known to the constitutional law . . .
10 affording as it does a swift and imperative remedy in all cases of illegal restraint or
11 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

12 **V. EXHAUSTION**

13 Exhaustion is prudential, not jurisdictional, in immigration habeas cases. Petitioner argues
14 that any attempt to exhaust his administrative remedies would be futile because the BIA recently
15 issued a precedential, binding decision holding that all noncitizens who entered without
16 admission or parole are ineligible for § 1226(a) bond hearings. *See Matter of Yajure Hurtado*, 29
17 I&N Dec. 216 (BIA 2025). Petitioner’s only appropriate remedy is immediate release as the
18 Government did not provide Petitioner with a pre-deprivation hearing. Requiring further
19 exhaustion would be futile and would subject Petitioner to continued unlawful detention without
20 effective relief.

21 **VI. PARTIES**

- 22 1. Petitioner ROHIT ROHIT, an adult noncitizen currently detained by ICE at the Imperial
23 Regional Detention Facility;
24 2. Respondent MIKE LEWIS, Jailer, Imperial Regional Detention Facility;

- 1 3. Respondent FIELD OFFICE DIRECTOR, San Diego Field Office, U.S. Immigration and
2 Customs Enforcement (ICE);
- 3 4. Respondent TODD M. LYONS in his official capacity as Acting Director of U.S.
4 Immigration and Customs Enforcement (ICE);
- 5 5. Respondent MARKWAYNE MULLIN in his official capacity as Secretary of the U.S.
6 Department of Homeland Security (DHS);
- 7 6. Respondent TODD BLANCE in his official capacity as Acting Attorney General of the
8 United States.

9 All Respondents are sued in their official capacities.

10 **VII. FACTUAL AND PROCEDURAL BACKGROUND**

11 **A. Arrest and Initiation of Removal Proceedings**

- 12 1. Petitioner was arrested by ICE on or about February 11, 2022, shortly after entering the
13 United States without inspection, and was released on or about February of 2022.
- 14 2. On February 12, 2022, DHS served Petitioner with a Notice to Appear (Form I-862)
15 charging him as removable under INA 212 (a) (6) (A) (i).
- 16 3. Petitioner then filed for an Application for Asylum, Withholding of Removal and
17 Protection under the Convention against Torture.
- 18 4. Petitioner was granted work authorization and started working as a long-haul truck
19 driver.
- 20 5. On or about March 2, 2026, ICE re-arrested Petitioner while stopped at a truck stop in
21 Ontario, California. There were no outstanding warrants for the Petitioners arrest, nor did
22 he have a criminal record. He was simply on his job duty as a commercial truck driver at
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1 a truck stop and ICE officers then arrested him at the truck stop. He did not receive
2 written notice of the reason for his re-detention.

3 6. Prior to the Petitioner's re-arrest, ICE did not assess whether he presented a flight risk or
4 danger to the community, or whether his re-arrest was justified for some other reason.

5 7. Prior to Petitioner's re-detention, he never received a hearing before a neutral decision
6 maker to determine if his re-detention is justified, and he has remained in ICE custody
7 since that date.

8 **B. Current Custody and Ongoing Proceedings**

9 1. Petitioner's removal proceedings remain pending, and no final order of removal has been
10 entered.

11 2. Prior to Petitioner being detained, Petitioner's case was pending with the Non-Detained
12 Immigration Court.

13 3. Petitioner's current case is pending before the Imperial Immigration Court.

14 4. Petitioner filed a Form I-589 Application for Asylum and Withholding of Removal
15 within the filing 1-year filing deadline, which remains pending.

16 **VIII. LEGAL FRAMEWORK**

17 Due process requires that if DHS seeks to re-arrest a person like Petitioner—who has lived in
18 the United States for years without incident after DHS first released him, and has attended all
19 required immigration check-ins and complied with the terms of his release—the government
20 must afford a hearing before a neutral decisionmaker to determine whether re-detention is
21 justified, and whether the person is a flight risk or danger to the community.

22 A writ of habeas corpus is “available to every individual detained within the United States.”
23 *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004) (citing U.S. Const., Art I, § 9, cl. 2). “The essence
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1 of habeas corpus is an attack by a person in custody upon the legality of that custody, and . . . the
2 traditional function of the writ is to secure release from illegal custody.” *Preiser v. Rodriguez*,
3 411 U.S. 475, 484 (1973). A court may grant a writ of habeas corpus to a petitioner who
4 demonstrates to be in custody in violation of the Constitution or federal law. 28 U.S.C. §
5 2241(c)(3). Traditionally, “the writ of habeas corpus has served as a means of reviewing the
6 legality of Executive detention, and it is in that context that its protections have been strongest.”
7 *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001). Accordingly, challenges to immigration-related
8 detention are within the purview of a district court's habeas jurisdiction. *Zadvydas v. Davis*, 533
9 U.S. 678, 687 (2001); see also *Demore v. Kim*, 538 U.S. 510, 517 (2003).

10 “The Due Process Clause of the Fifth Amendment provides, ‘No person shall ... be deprived
11 of life, liberty, or property, without due process of law.’ *U.S. Const. amend. V.*” *Hernandez v.*
12 *United States*, 757 F.3d 249 (5th Cir. 2014). “[T]he Due Process Clause applies to all persons
13 within the United States, including aliens, whether their presence is lawful, unlawful, temporary,
14 or permanent.” *Zadvydas*, 533 U.S. at 679. “Freedom from imprisonment—from government
15 custody, detention, or other forms of physical restraint— lies at the heart of the liberty that
16 Clause protects.” *Id.* at 690. A person at risk of suffering a serious loss being given notice and an
17 opportunity to be heard, in a meaningful manner and at a meaningful time, is the essence of
18 procedural due process. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

19 There are various ways that a petitioner may be granted some form of parole. The choice is
20 discretionary and is made on a case-by-case basis. Parole can be made for humanitarian reasons
21 or for it providing a significant public benefit under 8 U.S.C. § 1182(d)(5)(A), or it can be for
22 conditional parole under 8 U.S.C. § 1226(a). An Order of Recognizance is a form of conditional
23 parole, allowed by § 1226(a)(2)(B). See *In re of Cabrera-Fernandez*, 28 I. & N. Dec. 747, 747
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1 (B.I.A. 2023) ("The respondents were . . . released on their own recognizance pursuant to DHS'
2 conditional parole authority under . . . 8 U.S.C. § 1226(a)(2)(B)[.]"); *Ortega-Cervantes v.*
3 *Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) ("It is apparent that the INS used the phrase
4 'released on recognizance' as another name for 'conditional parole' under § 1226(a)"). While
5 courts have recognized these as distinct procedures, they have consistently applied the same
6 procedural due process analysis to petitioners under these forms of parole. In the context of 8
7 U.S.C. § 1182(d)(5)(A), courts have held that such parole status entitles the petitioner to certain
8 due process rights under both procedural due process and the Administrative Procedure Act
9 ("APA"). See *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1146 (D. Or. 2025) (finding violation
10 under APA); *Mata Velasquez v. Kurzdorfer*, 794 F. Supp. 3d 128, 154 (W.D.N.Y. 2025) (finding
11 violation under procedural due process). Similarly, for conditional release under § 1226(a), the
12 court in *Pinchi* explained similar procedural due process rights:

13 [Petitioner's] release from ICE custody after his initial apprehension reflected a
14 determination by the government that he was neither a flight risk nor a danger to the community,
15 and [Petitioner] has a strong interest in remaining at liberty unless he no longer meets those
16 criteria. The regulations authorizing ICE to release a noncitizen from custody require that the
17 noncitizen "demonstrate to the satisfaction of the officer that such release would not pose a
18 danger to property or persons" and that the noncitizen is "likely to appear for any future
19 proceeding." 8 C.F.R. § 1236.1(c)(8). "Release [therefore] reflects a determination by the
20 government that the noncitizen is not a danger to the community or a flight risk." *Saravia v.*
21 *Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd sub nom. Saravia for A.H. v.*
22 *Sessions*, 905 F.3d 1137 (9th Cir. 2018). [Petitioner] was apprehended by ICE officers when he
23 crossed the border into the United States . . . ICE then released him on his own recognizance. If
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1 ICE was not authorized to release [Petitioner] if he was a danger to the community or a flight
2 risk, the Court must infer from [the] release that ICE determined he was neither. [Petitioner's]
3 release from ICE custody constituted an "implied promise" that his liberty would not be revoked
4 unless he "failed to live up to the conditions of his release." *Morrissey v. Brewer*, 408 U.S. 471,
5 482 (1972). The regulatory framework makes clear that those conditions were that he remain
6 neither a danger to the community nor a flight risk. . . . Accordingly, [Petitioner's] private
7 interest in retaining his liberty is significant. *Pinchi*, 792 F. Supp. 3d at 1034-35.

8 Several district courts have followed suit and found due process violations where the
9 petitioners in the cases were specifically identified to be released under Order of Release on
10 Recognizance. See *C.A.R.V. v. Wofford*, No. 1:25-CV01395 JLT SKO, 2025 WL 3059549, at *9
11 (E.D. Cal. Nov. 3, 2025) (finding due process violation where petitioner was originally released
12 on OREC); *Leiva Flores*, 2025 WL 3228306, at *5 (similarly finding procedural due process
13 violation for petitioner released on OREC and requiring hearing before detention); *Faizyan*, 2025
14 WL 3208844, at *7.

15 Numerous courts across the country have ordered the release of individuals stemming from
16 ICE's illegal detention. *Patel*, 2025 WL 2823607, at *6; *Beltran Barrera*, 2025 WL 2690565, at
17 *7; *Roble v. Bondi*, 2025 WL 2443453, at *5 (D. Minn. Aug. 25, 2025) (ordering petitioner's
18 "release from custody as a remedy for ICE's illegal re-detention").

19 "Freedom from imprisonment—from government custody, detention, or other forms of
20 physical restraint—lies at the heart of the liberty protected by the Due Process Clause."
21 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Consistent with this principle, individuals released
22 on parole or other forms of conditional release have a liberty interest in their "continued liberty."
23 *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Such liberty is protected by the Fifth
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1 Amendment because, “although indeterminate, [it] includes many of the core values of
2 unqualified liberty,” such as the ability to be gainfully employed and live with family, “and its
3 termination inflicts a ‘grievous loss’ on the [released individual] and often on others.” *Id.*

4 To protect against arbitrary re-detention and to ensure the right to liberty, due process
5 requires “adequate procedural protections” that test whether the government’s asserted
6 justification for a noncitizen’s physical confinement “outweighs the individual’s constitutionally
7 protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (citation modified).

8 Due process thus guarantees notice and an individualized hearing before a neutral
9 decisionmaker to assess danger or flight risk before the revocation of an individual’s release.
10 *Goldberg v. Kelly*, 397 U.S. 254, 267 (1970) (“The fundamental requisite of due process of law
11 is the opportunity to be heard . . . at a meaningful time in a meaningful manner.” (citation
12 modified)); see also, e.g., *Morrissey*, 408 U.S. at 485 (requiring “preliminary hearing to
13 determine whether there is probable cause or reasonable ground to believe that the arrested
14 parolee has committed . . . a violation of parole conditions” and that such determination be made
15 “by someone not directly involved in the case” (citation modified)).

16 **IX. A Bond Hearing Does Not Cure an Ongoing Constitutional Violation as**
17 **Immediate Release is the Only Reasonable Remedy**

18 Petitioner challenges the lawfulness of his current detention. Petitioner had a post-
19 deprivation bond hearing which was denied by the Immigration Judge due to lack of jurisdiction.
20 Detention that is unconstitutional at its inception cannot be justified by a delayed administrative
21 hearing, such as a bond hearing, when the hearing should have been conducted *before* the
22 deprivation of the respondent’s freedom. *Fuentes v. Shevin*, 407 U.S. 67, 81–82 (1972). Where
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1 detention is unlawful due to lack of due process, the court should order immediate release, not
2 delayed administrative remediation.

3 Further, the structural design of the immigration court system further undermines the
4 effectiveness of bond hearings as a remedy. Immigration judges are not Article III judges but
5 employees of the Department of Justice, subject to policy directives and administrative oversight
6 from the Executive Branch. See Josh Gerstein & Kyle Cheney, *Judges Keep Ordering*
7 *Immigration Hearings — but Say the Results Are Often a Sham*, Politico (Mar. 6, 2026),
8 <https://www.politico.com/news/2026/03/06/immigration-case-hearings-judges-00815660>. This
9 structure, combined with aggressive enforcement policies and administrative pressure to
10 accelerate removals, has led critics—including former immigration judges—to warn that the
11 system increasingly prioritizes enforcement outcomes over neutral adjudication. *Id.* In such
12 circumstances, the theoretical availability of a bond hearing does not guarantee a meaningful or
13 impartial review of detention. *Id.*

14 This concern is not hypothetical. It is confirmed by the government’s own
15 characterization of the role. The DOJ’s official recruitment materials explicitly invite applicants
16 to “become a deportation judge,” describing the position in terms of determining “whether an
17 alien has to leave the United States or gets to stay”. *Department of Justice (2026)*
18 <https://join.justice.gov/>. This terminology is revealing. While the statutory title remains
19 “immigration judge,” the DOJ’s own public-facing language rebrands the role in outcome-
20 oriented terms, i.e., deportation.

21
22 This is not a neutral label. It reflects an institutional expectation and mission orientation
23 that is fundamentally inconsistent with the role of a neutral decisionmaker. See, e.g., the DOJ
24 recruitment language urging applicants to “apply today to become a deportation judge,”

1 emphasizing removal as the defining function of the position. Such framing signals that the
2 adjudicator's purpose is not to impartially weigh liberty interests, but to effectuate enforcement
3 priorities.

4 Additionally, recent reports indicate that immigration court proceedings have at times
5 been used in ways that undermine the very purpose of judicial process, for example, individuals
6 appearing for scheduled proceedings have been detained or funneled into expedited enforcement
7 actions rather than receiving meaningful adjudication. *Id.* These practices reinforce the reality
8 that administrative processes within the immigration system cannot reliably safeguard liberty
9 interests once detention has already occurred.

10 For these reasons, the Government's potential suggestion that a bond hearing could cure the
11 constitutional violation is misplaced. Due process requires that the Government provide notice
12 and an opportunity to be heard before revoking an individual's liberty. A delayed administrative
13 hearing within an overburdened and structurally constrained immigration court system cannot
14 retroactively cure an unconstitutional detention. Where detention was imposed without the
15 constitutionally required process, the appropriate remedy is immediate release, not a speculative
16 future hearing that may occur only after prolonged confinement.

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18 **X. CLAIM FOR RELIEF**

19 **Violation of Fifth Amendment Right to Due Process**

20 **Procedural Due Process**

21 Petitioner restates and realleges all the prior paragraphs as if fully set forth herein.
22 Due process does not permit the government to re-detain Petitioner and strip him of his liberty
23 without written notice and a pre-deprivation hearing before a neutral decisionmaker to determine
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1 whether re-detention is warranted based on danger or flight risk. See *Morrissey*, 408 U.S. at 487–
2 88. Such written notice and hearing must occur prior to any re-detention.

3 Respondents revoked Petitioner release and deprived him of liberty without providing
4 him written notice and a meaningful opportunity to be heard by a neutral decisionmaker prior to
5 his re-detention. Accordingly, Petitioner’s re-detention violates the Due Process Clause of the
6 Fifth Amendment.

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8 **XI. PRAYER FOR RELIEF**

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

- 9 1. Assume jurisdiction over this matter;
- 10 2. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody
11 immediately and permanently enjoining his re-detention during the pendency of his
12 removal proceeding absent written notice and a hearing prior to re-detention where
13 Respondents must prove by clear and convincing evidence that he is a flight risk or
14 danger to the community and that no alternatives to detention would mitigate those risks;
- 15 3. Declare that Petitioner’s re-detention while removal proceedings are ongoing without
16 first providing an individualized determination before a neutral decisionmaker violates
17 the Due Process Clause of the Fifth Amendment;
- 18 4. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (EAJA),
19 as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- 20 5. Grant any other and further relief that this Court deems just and proper.
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Respectfully submitted,

Dated: April 7, 2026

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EXHIBITS

Exhibit A: Notice to Appear (NTA)

Exhibit B: ICE Detention Information / Detainee Locator Record

Exhibit C: Order of the Immigration Judge (4/2/2026)