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6 UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT, CALIFORNIA

7 PRABIN JUGJALI,

8 Petitioner,

9 v.

10 Daniel BRIGHTMAN, Field Office Director of
Enforcement and Removal Operations, San
11 Diego Field Office, Immigration and Customs
Enforcement; Markwayne MULLIN, Secretary,
12 U.S. Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
13 SECURITY; Todd BLANCHE, U.S. Attorney
General; EXECUTIVE OFFICE FOR
14 IMMIGRATION REVIEW; Jeremy Casey,
Senior Warden of Imperial Regional Detention
15 Facility,

16 Respondents.
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Case No. '26CV2242 LL DEB

**PETITION FOR WRIT OF
HABEAS CORPUS; FOR AN ORDER
TO SHOW CAUSE WITHIN
3 DAYS; AND TO ENJOIN
TRANSFER FROM THE
JURISDICTION**

INTRODUCTION

1. Petitioner PRABIN JUGJALI is a noncitizen who entered the United States without inspection on December 30, 2023, and who has since resided within the United States. He is in the physical custody of Respondents at the IMPERIAL REGIONAL DETENTION FACILITY. Petitioner is being unlawfully detained without access to a bond hearing on the government's erroneous classification of him as an "arriving alien" under *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

2. If Petitioner was an "alien[] arriving in the United States," the government was obligated by statute to immediately order him removed from the United States or refer him to an asylum officer, at which point she would have been subject to either removal or mandatory detention pending review of her claims. 8 U.S.C. § 1225(b)(1). Alternatively, if Quishpe was "an applicant for admission" to the United States, the government was obligated to detain him pending resolution of removal proceedings. 8 U.S.C. § 1225(b)(2).

3. The government did not exercise either authority. Rather, the Department of Homeland Security ("DHS") has charged Petitioner as an "alien present in the United States without being admitted or paroled" under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), through a Notice to Appear ("NTA"). The NTA does not classify him as an "arriving alien".

4. Nevertheless, this statutory and regulatory framework, DHS and the Immigration Court have treated Petitioner as if he were subject to mandatory detention under INA § 235(b), 8 U.S.C. § 1225(b), based on the Board of Immigration Appeals' recent decisions in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). At his March 16, 2026 bond hearing, the Immigration Judge ("IJ") found that he lacked jurisdiction to

1 conduct a bond hearing, and refused to adjudicate Petitioner's request for bond, offering instead
2 that Petitioner withdraw his bond request after rather than receive a written denial.

3 5. This position is contrary to the text and structure of the INA, where a noncitizen, charged
4 under § 1182(a)(6)(A)(i), not designated as an "arriving alien", and arrested within the
5 United States, is detained under §1226(a) and therefore entitled to a bond hearing.

6 6. Petitioner seeks a Writ of Habeas Corpus ordering Respondents to provide him with a
7 constitutionally adequate bond hearing under 8 U.C.S. § 1226(a) within a short, specified
8 period.

9 10 **STATEMENT OF FACTS**

11 7. Petitioner PRABIN JUGJALI is a citizen of NEPAL who has resided in the United States
12 since 2023. Petitioner entered the United States without inspection On December 30,
13 2023 and was apprehended in Lukeville, AZ, after crossing the border, though not at a
14 port of entry. Petitioner was released from detention on his own recognizance on or about
15 January 2, 2024. His removal case was docketed with the New York City Immigration
16 Court at 26 Federal Plaza on January 24, 2024.

17 8. After this initial apprehension, Petitioner remained in the United States until November 1,
18 2025, when he was arrested by Immigration Customs Enforcement ("ICE") in New York,
19 New York.

20 9. Following his 2025 arrest, ICE declined to set a bond, and Petitioner requested custody
21 redetermination before an Immigration Judge ("IJ"). On March 16, 2026, Petitioner
22 appeared for a bond hearing before the Imperial Immigration Court. The IJ found under
23 its interpretation of *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), that he
24 lacked jurisdiction to consider Petitioner's request for bond.

1 10. The IJ explained that because Petitioner had entered the United States without inspection
2 and had been apprehended shortly after crossing the border, DHS considered him to be an
3 “arriving alien” subject to mandatory detention under INA § 235(b). This was so even
4 though Petitioner was not apprehended at a port of entry, and even though his Notice to
5 Appear charged him under INA § 212(a)(6)(A)(i) as a noncitizen “**present without**
6 **admission or parole,**” not as an arriving alien.

7 11. The IJ declined counsel’s request for an alternate ruling on the merits of Petitioner’s
8 request for bond. Instead, the IJ stated that he would **not adopt jurisdiction over**
9 **Petitioner’s bond redetermination without a federal habeas order** and asked whether
10 Petitioner preferred that he issue a denial or allow Petitioner to withdraw the bond
11 request. Given the IJ’s stated refusal to exercise jurisdiction, Petitioner **withdrew the**
12 **request** in order to preserve the ability to subsequently request a bond, and the IJ marked
13 the matter as “Bond Request Withdrawn.”

14 12. As a result, Petitioner has remained in immigration detention since November 1, 2025,
15 without ever receiving a meaningful opportunity to seek release on bond. His continued
16 detention is based solely on DHS’s and the IJ’s application of *Matter of Yajure-Hurtado*,
17 29 I&N Dec. 216 (BIA 2025) classifying him as an arriving alien, despite the undisputed
18 facts that he entered without inspection, was not apprehended at a port of entry, and has
19 lived in the United States since 2023.

20 13. Petitioner has pursued, and continues to pursue, his asylum claim through proceedings
21 before an immigration judge pursuant to Section 240 of the Immigration and Nationality
22 Act. Moreover, there have been no changed circumstances supporting a finding that
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1 Petitioner is a flight risk or danger to the community that could justify his detention. On
2 the contrary, Petitioner has complied with his legal obligations.

3 JURISDICTION

4 14. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
5 IMPERIAL REGIONAL DETENTION FACILITY in IMPERIAL, CALIFORNIA.

6 15. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
7 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
8 Constitution (the Suspension Clause).

9 16. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
10 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

11 VENUE

12 17. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
13 Imperial Regional Detention Facility, an ICE detention center, located within Imperial County,
14 and Jeremy CASEY is his immediate custodian as the Warden of the facility. Pursuant to *Braden*
15 *v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the
16 United States District Court for the CALIFORNIA SOUTHERN DISTRICT, the judicial district
17 in which Petitioner currently is detained.

18 18. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
19 Respondents are employees, officers, and agencies of the United States, and because a
20 substantial part of the events or omissions giving rise to the claims occurred in the
21 CALIFORNIA SOUTHERN DISTRICT.

1 19. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
2 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
3 Constitution (the Suspension Clause).

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

5 20. The Court should grant the petition for writ of habeas corpus “forthwith,” as
6 required by 28 U.S.C. § 2243. When a petitioner alleges unlawful immigration detention and
7 seeks immediate judicial review, 28 U.S.C. § 2243 mandates prompt action: the Court must
8 either award the writ or issue an Order to Show Cause without delay. If an OSC is issued,
9 Respondents must file a return “within three days unless for good cause additional time, not
10 exceeding twenty days, is allowed.” 28 U.S.C. § 2243.

11 21. Habeas corpus is “perhaps the most important writ known to the constitutional
12 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
13 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).¹ “The application for
14 the writ usurps the attention and displaces the calendar of the judge or justice who entertains it
15 and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*,
16 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

17 22. Petitioner is “in custody” for the purpose of § 2241 because they were arrested
18 and remain detained by the Respondents.

19 **PARTIES**

20 23. Petitioner PRABIN JUGJALI is a citizen of NEPAL who has been in
21 immigration detention since November 1, 2025. Petitioner entered the United States on or about
22 December 30, 2023, and has since resided in the United States. After Petitioner was arrested in
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1 New York, New York, ICE did not set bond. Petitioner remain detained at the IMPERIAL
2 REGIONAL DETENTION FACILITY in Imperial, CA.

3 24. Respondent Daniel BRIGHTMAN is the Director of the San Diego Field Office
4 of ICE's Enforcement and Removal Operation division. As such, Daniel Brightman is
5 Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is
6 named in his official capacity.

7 25. Respondent Markwayne MULLIN is the Secretary of the Department of
8 Homeland Security. He is responsible for the implementation and enforcement of the
9 Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's
10 detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official
11 capacity.

12 26. Respondent Department of Homeland Security (DHS) is the federal agency
13 responsible for implementing and enforcing the INA, including the detention and removal of
14 noncitizens.

15 27. Respondent Todd Blanche is the Attorney General of the United States. He is
16 responsible for the Department of Justice, of which the Executive Office for Immigration Review
17 and the immigration court system it operates is a component agency. He is sued in his official
18 capacity.

19 28. Respondent Executive Office for Immigration Review (EOIR) is the federal
20 agency responsible for implementing and enforcing the INA in removal proceedings, including
21 for custody redeterminations in bond hearings.

1 29. Respondent Jeremy Casey is employed as Warden of the IMPERIAL
2 REGIONAL DETENTION FACILITY, where Petitioner is detained. HE has immediate physical
3 custody of Petitioner. HE is sued in HIS official capacity.

4 **CLAIM FOR RELIEF**
5 **Violation of the INA:**

6 30. Petitioner repeats, re-alleges, and incorporates by reference each and every
7 allegation in the preceding paragraphs as if fully set forth herein.

8 31. Petitioner satisfies all statutory requirements for custody under INA § 236(a):

- 9 a. Petitioner have no lawful status and be detained by DHS;
- 10 b. Entered the U.S. without inspection and was not apprehended upon arrival;
- 11 c. Is not detained under 8.U.S.C. sections 1226 (c), 1225(b), or 1231
- 12 d. Respondent's classification of Petitioner as an "arriving alien" under *Matter of Q.*
13 *Li*, 29 I&N Dec. 66 (BIA 2025) or *Matter of Yajure-Hurtado*, 29 I&N Dec. 216
14 (BIA 2025) is contrary to the statutory framework of the INA, which
15 distinguishes between individuals apprehended at ports of entry and those arrested
16 within the interior of the United States. Petitioners was charged under
17 212(a)(6)(A)(i) as an alien present in the United States who has not been admitted
18 or paroled.
- 19 e. Was not detained under 8.U.S.C. section 1225(b) upon his entry to the United
20 States.
- 21 f. By refusing to provide Petitioner with a bond hearing and by asserting that the IJ
22 lacks jurisdiction to consider custody under § 236(a), Respondents are violating
23 the INA and depriving Petitioner of the statutory procedures Congress mandated
24 for individuals detained under § 236(a).

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The Petitioner's Detention without a Custody Hearing Violates Due Process and the Fifth Amendment

32. Petitioner reiterates and incorporates by reference paragraphs 1 through 29 as if fully set forth herein.

33. Additionally, the Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision maker. Due process protects all persons within the U.S. regardless of legal status. *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001) A vital liberty interest is at stake when an individual is subject to detention by the government. According to *Zadvydas*, the government may only deprive a non-citizen of physical liberty when it serves a legitimate purpose, commonly understood to include securing one's appearance at future hearings.

34. The BIA's interpretation of § 235(b) in *Matter of Yajure-Hurtado* and *Matter of Q. Li* deprives Petitioner of due process by misclassifying him as an "arriving alien," even though he was not apprehended at a port of entry, entered the United States without inspection, was briefly apprehended upon entering the United States, and has resided in the interior of the country since 2023. An arbitrary designation as an arriving alien precludes him from the opportunity to establish that he is neither a flight risk nor a threat to the community. His continued confinement thus bears no reasonable, non-punitive relationship to any legitimate aim and is constitutionally arbitrary.

35. Applying the long-standing precedent of *Mathews v. Eldridge*, 424 U.S. 319 (1976), Petitioner's liberty interest is paramount, and the risk of erroneous deprivation is extreme because he has been denied any venue to contest DHS's misclassification or to seek release under § 236(a). The risk is further heightened, as the IJ expressly refused to hear the case without a federal habeas order.

36. Respondent's continued detention of Petitioner without a bond hearing violates the INA, code of federal regulations and the Fifth Amendment's Due Process Clause.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Enjoin Respondents from transferring Petitioner out of the jurisdiction during the pendency of these proceedings;
- c. Order Respondents to file a response within 3 business days of the filing of this petition as to why Petitioner should not be given a custody hearing;
- d. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- e. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 6th of April, 2026.

/s/ Victor E. Hernandez

Victor E. Hernandez
Attorney for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

DATED: April 6, 2026

/s/ Victor E. Hernandez
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Attorney for Petitioner

CERTIFICATE OF ELECTRONIC SERVICE

I, VICTOR E. HERNANDEZ, CONFIRM THAT ON APRIL 9, 2026, I UPLOADED THE ATTACHED PETITION FOR WRIT OF HABEAS CORPUS INTO THE PACER SYSTEM, AND THAT NO SEPARATE SERVICE IS REQUIRED AS ALL PARTIES ARE PARTICIPATING IN THE SYSTEM.

/s/ Victor E. Hernandez

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