UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

HARWINDER SINGH KHINDA, *Petitioner*, v. **MIGUEL VERGARA**, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Dallas Field Office, Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, in his official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; **US ATTORNEY GENERAL**, in their official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and **TODD M. LYONS**, Acting Director, U.S. Immigration and Customs Enforcement, *Respondents*,	Case No. ____________________ **PETITION FOR WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

1. Petitioner Harwinder Singh is a 32-year-old national of India. He entered the United States on or about December 29, 2017, through Calexico, California. Upon entry, he expressed a fear of return to India and a desire to seek asylum. ***Ex 1.***
2. Petitioner was initially detained for several months, including a 40-day isolation period in Arizona due to a chickenpox outbreak at the facility.
3. Petitioner underwent a Credible Fear Interview (CFI), which he passed. On December 13, 2018, Petitioner was released from custody after posting a $20,000 bond. ***Ex 2.***
4. For over seven years following his release, Petitioner remained in total compliance with all immigration requirements. He maintained stable housing and employment, first in Louisiana and later in Fresno, California, properly notifying his attorney and the Immigration Court of his address changes.
5. Petitioner obtained valid Employment Authorization and built a successful career as an experienced commercial truck driver. He has no criminal record and has never violated the terms of his bond or release.
6. On March 25, 2026, while operating a commercial vehicle on a routine route from California to Minnesota, Petitioner was pulled over in Oklahoma for a "Class 3 inspection." Despite being under the speed limit and passing an English proficiency test, he was detained due to a single clerical omission: a missing signature on his travel logbook.
7. The police officer coordinated with ICE to take him into custody. He was subsequently transferred to the Bluebonnet Detention Facility in Texas. ***Ex 3.***
8. Petitioner has a pending asylum application before the EOIR.
9. Petitioner's re-detention after nearly eight years of bond-compliant life in the U.S. is

arbitrary and lacks any individualized finding of new danger or flight risk.

10. Petitioner respectfully seeks a writ of habeas corpus ordering his release.

PARTIES

11. Petitioner **Harwinder Singh Khinda** is a 32-year-old Indian national detained at the BlueBonnet Detention Facility.

12. Respondent **Markwayne Mullin**, Secretary of DHS, oversees immigration enforcement policies and is sued in his official capacity.

13. Respondent **Miguel Vergara**, Field Office Director for ICE's Dall Field Office and the supervisor of ICE's detention facility located in Anson, TX. He is the official responsible for Petitioner's custody and detention. He is sued in his official capacity.

14. Respondent **Todd Lyons,** is the acting Director for Immigration and Customs Enforcement (ICE). He is sued in his official capacity.

15. Respondent **US Attorney General**, is the Attorney General for the United States. He/She is sued in their official capacity.

JURISDICTION AND VENUE

16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) because Petitioner is in federal custody in violation of the Constitution and laws of the United States.

17. Federal question jurisdiction exists under 28 U.S.C. § 1331.

18. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, preserves habeas review of executive detention.

19. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is detained at Bluebonnet Detention Facility in Texas within the Northern District.

20. This Court retains jurisdiction to review Petitioner's claims under the habeas corpus petition. The Supreme Court has previously noted that where a Petitioner is not "asking for review of an order of removal," "challenging the decision to detain them in the first place or to seek removal," "challenging any part of the process by which their removability will be determined," § 1252(b)(9) is not a jurisdictional bar. *See Nielsen v. Preap, 586 U.S. 392, 402, 139 S. Ct. 954, 203 L. Ed. 2d 333 (2019); see also Texas v. United States, 809 F.3d 134, 163 (5th Cir. 2015).*

EXHAUSTION

21. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan, 503 U.S. 140, 144-45 (1992)*, superseded by statute on other grounds as recognized in *Woodford v. Ngo, 548 U.S. 81 (2006).*

22. More recently, in a published decision from the Board of Immigration Appeals (BIA), namely *Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025)*, the court held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." at 225. Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection, and nothing else about his time in the United States, his release from custody under 8 U.S.C. §1226(a), or his placement into full removal proceedings matters. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. Under the *Matter of Yajure Hurtado*, IJs lack jurisdiction to provide bond to individuals DHS classifies under § 1225(b).

23. Exhaustion is therefore futile. *See Chicas v. Warden, 2026 U.S. Dist. LEXIS 40346 (S.D.*

Tex. Feb. 20, 2026).

24. Courts that have issued "conditional" habeas grants—merely ordering an Immigration Judge (IJ) to conduct an individualized bond hearing—this remedy has proven, in practice, to be an empty gesture. Immigration Judges are summarily denying bond by citing "flight risk" in the vast majority of cases, regardless of the petitioner's history of compliance.

25. This systemic trend of blanket bond denials functions as a retaliatory mechanism to conditional habeas grants, effectively ensuring that the Petitioner's detention remains prolonged despite judicial intervention. For a petitioner like Mr. Singh, who already posted and maintained a $20,000 bond for over seven years, a subsequent finding of "flight risk" by an IJ would be factually irreconcilable and intellectually dishonest.

26. Consequently, any order from this Court that merely remands Petitioner to the Executive Office for Immigration Review (EOIR) for a bond hearing would be a futile exercise.

27. Because the administrative bond process has been rendered a sham through categorical denials, this Court should exercise its inherent habeas authority to order Petitioner's immediate release.

28. Further, neither an Immigration Judge (IJ) nor the BIA can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020)* (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--, 20 I. & N. Dec. 529, 532 (B.I.A. 1992)* ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.").

LEGAL FRAMEWORK

I. DETENTION UNDER § 1225(b)(2) IS UNLAWFUL AS APPLIED

29. Respondents' current classification of Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2) is both legally erroneous and factually inapplicable.

30. Unlike a "recent arrival" encountered at a port of entry, Petitioner has resided in the interior of the United States for over eight years.

31. Critically, after passing a Credible Fear Interview, Petitioner was released from custody on a $20,000 bond on December 13, 2018. This prior release under bond constitutes an implicit agency determination that Petitioner was neither a flight risk nor a danger to the community—a status he maintained without incident for nearly a decade.

32. Petitioner is not in expedited removal. Having been released on bond and lived in the interior since 2018, his custodial status is governed by 8 U.S.C. § 1226(a), which provides for individualized bond redetermination hearings, rather than the mandatory detention "applicant for admission" provisions of § 1225(b)(2).

33. Under Buenrostro-Mendez, the Fifth Circuit addressed only statutory interpretation utilized by Respondent and did not address constitutional limits on Respondent's authority to detain Petitioner.

34. The Fifth Circuit explicitly did not adjudicate Due Process claims. *See Hassen v. Noem, 3:26-cv-00048-DB, Dkt. No. 8 at *4 n.1, 2026 U.S. Dist. LEXIS 32968 (W.D. Tex. Feb. 9, 2026)* ("Buenrostro-Mendez does not change this case's outcome on procedural due process grounds").

II. PETITIONER'S DETENTION WITHOUT BOND VIOLATES THE FIFTH AMENDMENT

35. Petitioner does not challenge removal proceedings, and seeks only release from unconstitutional detention or an individualized custody hearing.

36. Courts in Texas post-Buenrostro have held that constitutional challenges survive statutory rulings, as its ruling does not defeat Due Process claims. *See Chicas; Hassem;*

*Azua-Zuniga v. Bondi, 2026 U.S. Dist. LEXIS 38171 *; 2026 LX 20424; 2026 WL 482453 (W.D. Tex. 2026); Ochoa v. Vergara, 2026 U.S. Dist. LEXIS 38172 *; 2026 LX 32820; __ F.Supp.3d __ (W.D. Tex. 2026).*

37. Noncitizens are entitled to due process of the law under the Fifth Amendment. *See Demore v. Kim, 538 U.S. 510, 523 (2003) (quoting Reno v. Flores, 507 U.S. 292, 306 (1993).* This is particularly true where a petitioner presents an as-applied challenge to their detention. *See Demore at 514.* To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge, 424 U.S. 319 (1976).*

38. Under Mathews, courts weigh the following three factors: 1) "the private interest that will be affected by the official action;" 2) 'the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *424 U.S. at 335.*

A. MATHEWS FACTORS

39. As to the first Mathews factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld, 542 U.S. 507, 529, 531 (2004).*

40. Petitioner has been detained since March 25, 2026. This detention prevents him from seeing his family, going to work to support himself, and deprives him of any privacy and freedom of movement.

41. As to the second Mathews factor, courts must "assess whether the challenged procedure

creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Gunaydin v. Trump, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *8 (D. Minn. May 21, 2025).* The current procedures cause an erroneous deprivation of Petitioner's liberty interest in remaining free from detention. The second factor also favors Petitioner given that the risk of erroneous deprivation of Petitioner's liberty is far higher when Petitioner is forced to prove that he isn't a flight risk or danger, rather than Respondents being forced to prove that he is. The burden of attempting to prove a negative is daunting at best, and in most cases, a Sisyphean task which cannot be accomplished. *See Elkins v. United States, 364 U.S. 206, 218, 80 S. Ct. 1437, 4 L. Ed. 2d 1669 (1960).*

42. As discussed above, the statutory text, statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

43. Here, Petitioner was not arriving at a border or port of entry when he was detained, nor was he seeking admission to the country. Instead, he entered without inspection, was processed by DHS, placed into full § 240 removal proceedings, released on bond, and then lived in the United States for over seven years before being detained from the interior. As such, Petitioner is not subject to legal mandatory detention under Section 1225(b)(2).

44. Therefore, it is clear that the government's current procedure, subjecting Petitioner to mandatory detention under Section 1225(b)(2), creates a substantial risk of erroneous

deprivation of Petitioner's interest in being free from arbitrary confinement.

45. Additionally, there are reasonable alternatives available for Respondents to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high.

46. What makes Petitioner's detention especially constitutionally offensive is not merely its length or severity, but its complete absence of judgment. No official reassessed danger. No officer reconsidered flight risk. No decisionmaker evaluated Petitioner's medical condition, compliance history, or reliance interests.

47. Instead, liberty was revoked categorically, by spreadsheet logic, because a policy memorandum instructed officers and administrative judges to put their longstanding discretionary duties and training to the side.

48. Regarding the third Mathews factor, the government's interest in maintaining the current procedure is minimal here. The new interpretation of Section 1225(b)(2) — that people like Petitioner who have resided in the United States for years are now subject to mandatory detention — flies in the face of the statutory text, statutory framework, Congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation.

49. Any government interest in public safety or ensuring that Petitioner attends future

immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk.

50. Civil detention must serve a legitimate regulatory purpose. Here, it serves none. Petitioner is not dangerous. He is not a flight risk. He has an incentive to appear, evidenced by years of compliance and a valid EAD.

51. If Respondents were to provide an individualized bond hearing, providing an actual review of Petitioner's case is paramount. The comprehensiveness of such a hearing is crucial to Petitioner's due process rights, as such is key to the nature of a habeas corpus claim, especially one revolving around providing due process to Petitioner, is to ensure that the immigration court provides not just a custody redetermination hearing, but one that fully accounts for Petitioner's circumstances. A boilerplate denial finding Petitioner is a flight risk after a cursory review of Petitioner's request does not give any more due process than a denial due to claimed lack of jurisdiction.

52. Courts have previously looked at the issue of the burden of proof required for a custody redetermination hearing, and have found that Respondents' placement of said burden solely on the alien is untenable. !!!

53. While Respondents' may place the burden on Petitioner regarding proving that they are not a flight risk, this Court is not required to follow suit in imposing that burden on Petitioner, particularly given the constitutional due process claims present in this instant matter. *See Loper Bright Enters. v. Raimondo, 603 U.S. 369, 413, 144 S. Ct. 2244, 219 L. Ed. 2d 832 (2024).* Further, the Supreme Court determined that Section 1226(a) does not

delineate a burden of proof that Petitioner would need to be held to in a custody redetermination hearing, but that the Due Process Clause could. In other decisions, however, the Supreme Court has noted that, especially in civil proceedings (as is the case in Petitioner's removal matter), the burden is on the government to show that Petitioner is a flight risk or danger, given the incongruities in the potential harm both parties might face if due process were not properly followed. *See also Foucha v. Louisiana, 504 U.S. 71, 80, 112 S. Ct. 1780, 118 L. Ed. 2d 437 (1992).*

CLAIMS FOR RELIEF

COUNT I Violation of the Fifth Amendment Due Process Clause

54. Petitioner re-alleges and incorporates all prior paragraphs.
55. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.
56. The Due Process Clause protects all persons within the United States, regardless of status. *Zadvydas v. Davis, 533 U.S. 678, 693 (2001)*. It forbids detention that is arbitrary, purposeless, or devoid of procedure.
57. Petitioner has a fundamental interest in liberty and being free from official restraint. Government decisions that are arbitrary are not compatible with due process. See County of *Sacramento v. Lewis, 523 U.S. 833, 845 (1988).*
58. The government has previously and affirmatively released Petitioner into the United States and allowed him to remain at liberty while he applied for asylum.
59. As a matter of due process, the government may not arbitrarily reverse that previous

decision. Respondents' decision to do so is arbitrary because it is not based on any justification, facts, or logic, including any individualized factors, that are compatible with due process. Bureaucratic amnesia is not due process.

60. Petitioner is not a danger, not a flight risk, and not subject to any criminal proceedings. He has complied with all requirements of his pending asylum case and maintained steady employment. His detention therefore serves no legitimate purpose beyond institutional inertia.

61. The government's blanket refusal to afford a bond hearing, the basic procedural safeguard distinguishing lawful civil detention from punishment, violates both statutory command and constitutional guarantee. *See Zadvydas v. Davis, 533 U.S. 678, 690 (2001).*

62. Petitioner is entitled to immediate release. If Respondents' theory were correct, no release decision would ever carry legal weight. Any noncitizen once released could be re-arrested years later without explanation, without changed circumstances, and without hearing, simply because an agency reinterpreted the statute midstream.

63. Petitioner has a pending asylum application, a congressionally authorized lawful pathway under 8 U.S.C. § 1158. DHS's pattern of arresting asylum applicants reflects bad-faith enforcement designed to circumvent statutory protections.

64. Any custody redetermination hearing should be with the direction that it is the Respondents' burden of proof to show that Petitioner is not a flight risk or danger to the community, particularly in light of the balancing of the Mathews factors.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

B) Enjoin Respondents from transferring Petitioner outside this District without Court approval;

C) Declare that Petitioner's current detention without an individualized determination is unlawful;

D) Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody

E) Order Respondents to file a status report within six business days of the date of this Court's Opinion and Judgment;

F) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

G) Grant any further relief this court deems just and proper.

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Respectfully Submitted,

Nate Green Law, PLLC

Dated: April 08, 2026

/s/ Nathaniel Green
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EXHIBIT

Exhibit 1	NTA
Exhibit 2	Bond Release
Exhibit 3	ICE Detainee Locator
Exhibit 4	Retired Judge Burman's Declaration

VERIFICATION PURSUANT TO 28 U.S.C. §2242

I represent Petitioner, Harwinder Singh Khinda and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Date: 04/08/2026

/s/ Nathaniel Green
Nathaniel Green

/s/Ruby Kaur
Ruby Kaur

CERTIFICATE OF SERVICE

I hereby certify that on April 08, 2026, I filed the foregoing petition for Writ of Habeas Corpus electronically through the CM/ECF system, which caused all parties of counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

/s/ Nathaniel Green
Nathaniel Green

/s/Ruby Kaur
Ruby Kaur