

UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

GURIKMAN SINGH,

Petitioner,

v.

JUAN BALTAZAR, Warden, Aurora ICE
Processing Center;
TODD LYONS, Acting Director of
U.S. Immigration and Customs Enforcement;
MARKWAYNE MULLIN, Secretary of the U.S.
Department of Homeland Security; and
TODD BLANCHE, Acting Attorney General of
the United States
in their official capacities,

Respondents.

Case No. 26-cv-1791

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241**

VERIFIED PETITION FOR HABEAS CORPUS

INTRODUCTION

1. This case challenges the unlawful arrest and mandatory immigration detention of Gurikman Singh ("Petitioner" or "Gurikman"), who has no criminal history and arrived in the United States ("U.S.") at the age of 18 on October 15, 2023, near Tecate, California.
2. The same day Gurikman was apprehended by Customs and Border Patrol ("CBP"), he was served with a Notice to Appear ("NTA") and issued an Order of Release on Recognizance.

3. After being released, Gurikman timely filed an application for asylum and withholding of removal ("Form I-589") with the Executive Office of Immigration Review ("EOIR").
4. Additionally, on July 24, 2025, Gurikman acquired Special Immigrant Juvenile Status ("SIJS"), a humanitarian immigration protection for young people who have suffered parental abuse, neglect, or abandonment, created by Congress to give these juveniles the opportunity to remain safely and permanently in the United States. Unfortunately, given the numerical limitation and current visa backlog under 8 U.S.C. § 1153(b)(4), Gurikman is not eligible to apply for a visa and/or adjustment of status to a Lawful Permanent Resident ("LPR") because a visa is not available at this moment.
5. To date, Respondent remains in the physical custody of Respondents at the Aurora ICE Processing Center ("AIPC"). Petitioner faces unlawful detention because the Department of Homeland Security ("DHS") and the EOIR maintain that Respondent is an applicant for admission under 8 U.S.C. § 1225(b)(2), even though Respondent entered the U.S. over two years ago and the DHS initiated removal proceedings on October 15, 2023.
6. The Due Process Clause of the Fifth Amendment forbids arbitrary and prolonged detention. Respondents have never justified Petitioner's continued detention at a hearing before a neutral decisionmaker with evidence of danger or flight risk, and, as such, Petitioner's detention is arbitrary and prolonged.
7. Petitioner brings this action for injunctive, habeas, and declaratory relief and requests an order for Respondents to release him.

PARTIES

8. Petitioner Gurikman Singh is a citizen of India. Petitioner is currently detained at AIPC and in the custody and under the direct control of Respondents and their agents.

9. Respondent Juan Baltazar is the Warden of the AIPC, and he has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens. Thus, Respondent Juan Baltazar is a legal custodian of Petitioner.
10. Respondent Todd Lyons is named in his official capacity as the Acting Director of ICE. Respondent Todd Lyons is a legal custodian of Petitioner and has authority to release him.
11. Respondent Markwayne Mullin is named in his official capacity as the Secretary of the DHS. In this capacity, Respondent Markwayne Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, the agency responsible for Petitioner's detention. Respondent Markwayne Mullin is a legal custodian of Petitioner.
12. Respondent Todd Blanche is named in his official capacity as the Acting Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, he has the authority to adjudicate removal cases and to oversee the EOIR, which administers the immigration courts and the Board of Immigration Appeals. Respondent Todd Blanche is a legal custodian of Petitioner.

JURISDICTION AND VENUE

13. This Court has jurisdiction under the U.S. Constitution. U.S. Const. art. I § 9, cl. 2 ("The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require.").
14. The Court also has jurisdiction under 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1651 (the All Writs Act); and 28 U.S.C. § 2241 (habeas corpus).
15. This Court has additional remedial authority under 28 U.S.C. §§ 2201-02 (the Declaratory Judgment Act), to grant injunctive and declaratory relief.

16. Venue is proper in the District of Colorado under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events giving rise to these claims occurred in this District. Venue is also proper under 28 U.S.C. § 2241(d) because Gurikman was arrested and detained by Respondents and Petitioner is in custody in violation of the U.S. Constitution and the laws of the U.S. 28 U.S.C. § 2241(a).
17. Administrative exhaustion is unnecessary because it would be futile: it is Respondents' position that noncitizens in Gurikman's situation are subject to mandatory detention without access to a bond hearing, so he has no meaningful administrative remedies to exhaust

LEGAL FRAMEWORK

18. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.
19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).
20. "'It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.'" *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom 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 v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious”).

21. Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). 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. at 528. 26.
22. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Immigration detention is a form of civil confinement that “constitutes a significant deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
23. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993). The INA establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).

24. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. *See* 8 U.S.C. § 1229a.
25. In 1990, Congress created Special Immigrant Juvenile Status ("SIJS") to protect a category of vulnerable immigrant juveniles and provide them a pathway to citizenship. Immigration Act of 1990, Pub. L. No. 101-649, § 153, 104 Stat. 4978 (1990) (amending various sections of the INA). SIJS "alleviates hardships experienced by some dependents of United States juvenile courts by providing qualified [noncitizens] with the opportunity to apply for special immigrant classification and lawful permanent resident status, with [the] possibility of becoming citizens of the United States in the future." Special Immigrant Status, 58 Fed. Reg. 42843, 43844 (Aug. 12, 1993). Since 1990, Congress has amended the INA multiple times to expand the protections of SIJS, most recently in 2008, through the TVPRA, Pub. L. 110-457, § 235(d), 122 Stat. 5044 (2008).
26. To be granted SIJS, youths must first "satisf[y] a set of rigorous, congressionally defined eligibility criteria." *Osorio-Martinez v. U.S. Att'y Gen.*, 893 F.3d 153, 163 (3d Cir. 2018). Specifically, to be eligible for SIJS, a noncitizen youth must be present in the United States and obtain judicial determinations in a state juvenile court order that they are dependent on the juvenile court or placed by the court under the custody of a state agency or an individual; cannot be reunified with one or both parents because of abuse, neglect, abandonment, or other similar basis; and that it is not in their best interest to return to their country of origin. 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11(c).
27. The application process for SIJS includes submitting a Form I-360 SIJS Petition to USCIS, along with the state juvenile court order and other evidence. *See* 8 C.F.R. § 204.11(b).

USCIS then considers whether to exercise its statutory “consent function” to approve the petition. *See* 8 U.S.C. § 1101(a)(27)(J)(iii). By doing so, the agency recognizes the state juvenile court’s determinations, including that the child’s return to their country of origin would be contrary to their best interests. 8 U.S.C. § 1101(a)(27)(J)(iii).

28. The main benefit of SIJS—and indeed, its core purpose—is that it confers on vulnerable young people the right to seek lawful permanent status, while remaining in the United States, through a process called adjustment of status. *See* 8 U.S.C. § 1255(h). To facilitate this process, Congress has removed numerous barriers to adjustment of status for SIJS beneficiaries. Typically, a noncitizen seeking to adjust to LPR status in the United States must show they are admissible under immigration law and have entered the country with inspection or parole by an immigration officer. But Congress exempted SIJS youth from many inadmissibility grounds, made them eligible for adjustment regardless of their actual manner of entry into the United States, and created a generous waiver of other non-exempted inadmissibility grounds. 8 U.S.C. § 1255(h). Congress also explicitly provided that certain grounds for removal “shall not apply” to SIJS beneficiaries. 8 U.S.C. § 1227(c). Accordingly, the SIJS statute “show[s] a congressional intent to assist a limited group of abused children to remain safely in the country with a means to apply for LPR status.” *Garcia v. Holder*, 659 F.3d 1261, 1271 (9th Cir. 2011) (abrogated on other grounds).
29. Although SIJS renders youth eligible to apply for adjustment to LPR status, they can only do so when a visa is immediately available to them. 8 U.S.C. § 1255(h). However, there is an annual limit on visas available to SIJS beneficiaries. 8 U.S.C. § 1153(b)(4). And since 2016, the number of SIJS beneficiaries has surpassed the supply of available visas for most countries. Nonetheless, the government takes the position that SIJS youth in the visa

backlog remain subject to removal for their purported lack of lawful immigration status in the United States while they wait for the ability to apply for LPR status. So, in March 2022, to address the harms being caused by the SIJS visa backlog, USCIS announced that all young people granted SIJS would also be considered for a discretionary grant of deferred action, meaning that they would be protected from deportation and eligible for work authorization while waiting for a visa to become available. In enacting this policy, USCIS acknowledged that “Congress likely did not envision that SIJ petitioners would have to wait years before a visa became available. . . .”¹

30. On June 6, 2025, USCIS abruptly rescinded the 2022 SIJS deferred action policy, a decision that has resulted in nationwide litigation.² Therefore, most youths who received an approved I-360 pursuant to SIJS after June 6, 2025, did not receive deferred action.

RELEVANT FACTS AND PROCEDURAL HISTORY

31. Petitioner is a 21-year-old native and citizen of India who entered the U.S. without inspection on or about October 15, 2023. *See* Exh. 1, NTA.
32. After being apprehended by CBP, Gurikman was issued an Order of Release on Recognizance. *See* Exhibit 2, Order of Release on Recognizance. The Order of Release contained the following conditions:
- a. you must report for any hearing or interview as directed by the DHS or the EOIR,
 - b. you must surrender for removal from the U.S. if so ordered,

¹ USCIS Policy Alert, PA-2022-10, “Special Immigrant Juvenile Classification and Deferred Action” (March 7, 2022), <https://perma.cc/8CTL-QAQY> (“2022 USCIS Policy Alert”).

² In November 2025, a federal court stayed the government’s decision to rescind the SIJS deferred action policy, thus restoring the 2022 policy during the litigation’s pendency. *A.C.R. v. Noem*, No. 25-CV-3962, 2025 WL 3228840 (E.D.N.Y. Nov. 19, 2025).

- c. you must report to [an unknown person] at "As indicated on the attached OREC G-56" on [unknown date] at [unknown time],
- d. you must not change your place of residence without written permission from the [unnamed] immigration officer above,
- e. you must not violate any local, state or federal laws, and must assist the DHS in obtaining any necessary travel documents.

- 33. The DHS placed Gurikman in removal proceedings on or about November 14, 2023, by filing the NTA with the EOIR, alleging that Petitioner is removable pursuant to 8 U.S.C. § 1182 (a)(6)(A)(i) as an alien present in the U.S. without being admitted or paroled, or who arrived in the U.S. at any time or place other than designated by the Attorney General. *Id.*
- 34. Gurikman filed an application for asylum and withholding of removal, Form I-589, on December 3, 2023, with the EOIR in San Francisco, California. *See* Exh. 3, Application for Asylum and Withholding of Removal.
- 35. After receiving the appropriate predicate order, Gurikman filed a Petition for SIJS, Form I-360, on March 7, 2025, requesting a visa pursuant to 8 U.S.C. § 1101(a)(27)(J). This petition was approved on July 24, 2025. *See* Exh. 4, I-360 Approval Notice. However, given the numerical limitation and current visa backlog under 8 U.S.C. § 1153(b)(4), discussed above, Gurikman is not eligible to apply for a visa and/or adjustment of status to LPR. *Id.* Additionally, because Gurikman received approval for SIJS after the rescission of the 2022 USCIS policy, he was not granted deferred action. *Id.*
- 36. Gurikman attended a scheduled check-in on April 9, 2026. During this ICE Check-In, Gurikman was accused of violating the terms of his release and was re-detained and placed in immigration custody without an explanation as to what terms of his release were violated

or an opportunity to rebut the accusations. *See* Exh. 5, Form I-830.

37. Upon information and belief, there was no warrant for Gurikman's arrest. Gurikman was not accused of violating any vehicle or traffic law. Gurikman had no prior arrests, he had a stable address, and a path to permanent status. He did not run or try to evade officers. Nonetheless, ICE arrested Gurikman and transferred him to the AIPC.
38. On April 21, 2026, Petitioner, with undersigned counsel, appeared at a master calendar hearing at the EOIR Aurora Immigration Court. Petitioner did not ask for a custody determination due to the current framework that IJs are following pursuant to *Matter of Yajure Hurtado*, in which IJs are denying bond hearings on the grounds of “lack of jurisdiction” for all noncitizens who entered without inspection, a wrongful interpretation of detention authority under 8 U.S.C. § 1225 and § 1226.

CLAIMS FOR RELIEF

COUNT I

Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution Substantive Due Process

39. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
40. The Supreme Court has long recognized that noncitizens physically present in the United States are entitled to due process protections, regardless of their immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). And “[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*, 533 U.S. at 690.

41. Because “liberty is the norm, and detention prior to trial or without trial is the carefully limited exception,” the government may imprison people as a preventive measure only within strict limits. *Foucha v. Louisiana*, 504 U.S. 71, 83 (1992) (quoting *United States v. Salerno*, 481 U.S. 739, 755 (1987)).
42. Immigration detention is civil detention and must “bear a reasonable relation to the purpose for which the individual was committed” so that it remains “nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690 (citation modified); *see also Schall v. Martin*, 467 U.S. 253, 264-69 (1984) (finding detention must be a proportional—not excessive—response to a legitimate state objective).
43. To satisfy substantive due process under the Fifth Amendment, a noncitizen’s detention must be tied to flight risk or a danger to the community. *Zadvydas*, 533 U.S. at 690.
44. Neither purpose is served by Gurikman's detention. Respondents have made no claim that Gurikman presents a flight risk or a danger to the community, nor could they. When Gurikman was previously released from custody in 2023, the DHS came to precisely the opposite conclusion. DHS determined that Gurikman should be released *on recognizance*. With this grant of release *on recognizance*, Gurikman lived up to the trust the DHS placed in him by appearing at every appointment and court hearing, committing no crimes, and notifying the EOIR and DHS when his address changed.
45. Since his entry in October 2023, Gurikman's ties to this country have only grown stronger. He has built his entire life here, and he has been granted SIJS, which gives him a path to citizenship and safe and meaningful future. *See Osorio*, 893 F. 3d at 173-75.
46. Gurikman has a fundamental interest in liberty and being free from official restraint, such as detention at the AIPC.

47. Gurikman has been deprived of the meaningful procedural protections necessary to justify restraint on his liberty and violates the Due Process Clause.
48. Because the government is detaining Gurikman without a legitimate interest in protecting against danger or flight risk, his detention violates substantive due process under the Fifth Amendment, and this Court should order his immediate release.

COUNT II

Violation of the Due Process Clause of the Fifth Amendment to the US. Constitution Procedural Due Process

49. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
50. Even “[w]hen government action depriving a person of life, liberty, or property survives substantive due process scrutiny, it must still be implemented in a fair manner.” *Salerno*, 481 U.S. at 746.
51. Courts use the three-factor *Mathews v. Eldridge* test to determine what process is due to noncitizens challenging detention. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* factors assess: (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.” *Id.* at 335.
52. The first *Mathews* factor weighs heavily in Gurikman's favor. Gurikman has a strong liberty interest considering (1) his prior release on recognizance and (2) his valid grant of SIJS. First, because he was previously released from custody on recognizance, Gurikman

possessed a weighty interest in his continued liberty. Second, to be approved for SIJS, Gurikman had to meet stringent eligibility criteria, and he was promised that, in return, he would be given a meaningful path to LPR status in this country. That came with the expectation that he could build a life here without risking arbitrary arrest, detention, and removal that would strip him of the very permanency Congress created SIJS to provide vulnerable youth like him. This is precisely what Gurikman did, building a home with his uncle, with whom a juvenile court found it to be in his best interests to remain; working and contributing to his community; and making plans for the future.

53. The second *Mathews* factor also favors Gurikman. Gurikman was previously released from detention after being found that he was neither a danger nor a flight risk, and his re-detention, without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, make the risk of erroneous deprivation of liberty not just high, but certain. Gurikman's detention is the direct result of insufficient safeguards and lack of procedure. Under these circumstances, the risk of erroneous deprivation of his liberty is high and the second factor weighs heavily in his favor.
54. The third factor favors Gurikman, as well. Gurikman's erroneous detention imposes high fiscal and administrative burdens on Respondents. Releasing Gurikman and requiring the government to provide a pre-deprivation hearing before re-detaining him stands to save the government money and effort wasted on erroneous detention. And unlawful detention and violation of noncitizens' constitutional rights disserve the public interest.
55. Respondents violated procedural due process by re-detaining Gurikman without adequate procedural protections before or after deprivation of his liberty. Therefore, this Court

should order Gurikman's release without any restraints on his liberty and prohibit any re-detention absent pre-deprivation process.

COUNT III

**Violation of the Fourth Amendment to the U.S. Constitution,
8 U.S.C. § 1357(a)(2), and 8 C.F.R. § 287.3(d)
Unlawful Arrest**

56. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
57. The Fourth Amendment protects “[t]he right of the people to be secure in their persons . . . against unreasonable searches and seizures.” U.S. Const. Amend. IV. Immigration arrests and detentions are seizures within the meaning of the Fourth Amendment. *INS v. Lopez-Mendoza*, 468 U.S. 1032, 1044 (1984) (acknowledging that deportation proceedings are civil, but the Fourth Amendment still applies to the “seizure” of the person).
58. As a general matter, the Fourth Amendment requires that all arrests entail a neutral, judicial determination of probable cause. *See Gerstein v. Pugh*, 420 U.S. 103, 114 (1975). “Probable cause requires a ‘substantial probability; based on facts related to the individual.’ *Ramirez Ovando v. Noem*, No. 1:25-CV-03183-RBJ, 2025 WL 3293467, at *15 (D. Colo. Nov. 25, 2025) (quoting *Storey v. Taylor*, 696 F.3d 987, 992 (10th Cir. 2012) (finding probable cause for immigration arrests lacking).
59. That determination can occur either before the arrest, in the form of a warrant, or promptly afterward, in the form of a prompt judicial probable cause determination. *See id.* It must, however, occur within 48 hours of detention, which includes weekends, unless there is a bona fide emergency or other extraordinary circumstance. *See Cnty. of Riverside v. McLaughlin*, 500 U.S. 44, 57 (1991).

60. There is a strong preference that immigration arrests be based on warrants. *See Arizona v. U.S.*, 567 U.S. 387, 407–08 (2012). The INA thus provides immigration agents with only limited authority to conduct warrantless arrests. 8 U.S.C. § 1357(a)(2). Specifically, an officer must have probable cause to believe the person is violating the immigration laws *and* that the person “is likely to escape before a warrant can be obtained,” *i.e.*, is a flight risk *Id.*; *see also Ramirez Ovando*, 2025 WL 3293467, at *2. Federal regulations track the strict limitations on warrantless arrests. *See* 8 C.F.R. § 287.8(c)(2)(ii).
61. Gurikman's warrantless arrest occurred without probable cause that he was a flight risk. “Courts have ... made the self-evident finding that the likelihood of escape is lower when the individual has resided in the country for a lengthy period of time and has strong community ties.” *Escobar Molina v. U.S. Dep’t of Homeland Sec.*, No. CV 25-3417 (BAH), 2025 WL 3465518, at *13 (D.D.C. Dec. 2, 2025) (collecting cases). At the moment of his seizure, Gurikman (a) had an approved I-360, which provided him a path to LPR status, (b) was living at a stable home address, of which the government was fully aware, and (c) had been in the United States for almost three years and built strong ties to his community. Moreover, Gurikman fully complied with the ICE officers and in no way tried to disobey or flee. Therefore, no officer could have probable cause that Gurikman was likely to escape before a warrant could be obtained.
62. Without a statutory basis to arrest, Respondents were required under the Fourth Amendment to secure a prompt judicial probable cause determination to continue holding Gurikman. *Gerstein*, 420 U.S. at 114; *McLaughlin*, 500 U.S. at 56–57. He received no such judicial determination, and his detention continued well beyond 48 hours, rendering it presumptively unconstitutional.

63. Regulations also provide that noncitizen arrested without a warrant must receive a custody determination within 48 hours of the arrest, unless there is “an emergency or other extraordinary circumstance” that requires “an additional reasonable period of time” to make the custody determination. 8 C.F.R. § 287.3(d). During that custody determination, the immigration officer must make findings as to whether “release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8). Similarly, upon information and belief, Gurikman has received no such custody determination.
64. Gurikman's re-detention after a prior release, without any new showing of probable cause, was also unconstitutional. When the government releases a person from detention, the purpose of their detention has been accomplished. *See Williams v. Dart*, 967 F.3d 625, 634 (7th Cir. 2020) (“It is axiomatic that seizures have purposes. When those purposes are spent, further seizure is unreasonable.”). As a result, any probable cause justifying the prior arrest, if any, is extinguished.
65. Thus, under the Fourth Amendment, the government cannot re-arrest someone without changed circumstances that amount to new probable cause. *See Carlson v. Landon*, 342 U.S. 524, 546-47 (1952) (holding that re-arrest for immigration detention required a new warrant after previous release from immigration detention on bail).
66. Respondents’ warrantless re-arrest of Gurikman without changed circumstances, and their refusal to provide a prompt (or any) probable cause determination, violated the Fourth Amendment, the INA, and implementing regulations. Thus, this Court should order his release.

COUNT IV

Violation of the Immigration and Nationality Act and Procedural Due Process

67. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.
68. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings. First, 8 U.S.C. § 1226 “authorizes the Government to detain certain [noncitizens’] already in the country pending the outcome of removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Individuals detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c). Second, the INA provides for brief mandatory detention of noncitizens with final orders of removal. *See* 8 U.S.C. § 1231. Third, the INA also provides for mandatory detention of two groups of noncitizens encountered “at the Nation’s borders and ports of entry.” *Jennings*, 583 U.S. at 288. The first group consists, generally, of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). The second group subject to mandatory detention consists of anyone alleged to be an “applicant for admission” who is “seeking admission” and whom an “examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A).

69. Respondents claim that Gurikman is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A). But this statute does not apply to Gurikman, who was released on his own recognizance by the DHS on October 15, 2023. Since then, he has appeared for all his scheduled hearings with EOIR and ICE check-ins in California and Colorado, including letting the government know about any address changes he has had in a timely manner. The Order of Release on Recognizance (Form I-220A) dated October 15, 2023, that ICE used to release Gurikman clearly invokes the discretionary authority for detention by Immigration officials under section 236 of the Immigration and Nationality Act, 8 USC § 1226, as opposed to § 1225, as DHS asserts. Likewise, the order of release does not invoke the provisions of § 1225, nor defines the Petitioner as an “applicant for admission”.
70. The DHS placed the Petitioner in § 1229(a) removal proceedings and charged the Petitioner with inadmissibility pursuant to 8 U.S.C. § 1182. As such, if the DHS had a lawful reason to detain Gurikman, the DHS should have detained him pursuant to § 1226(a) because he has been present and residing in the U.S. for more than two years and is not subject to any mandatory detention provisions under 1226(c). Detention under § 1226(a) requires access to a custody redetermination hearing by an IJ.
71. Additionally, a person with SIJS cannot be detained under § 1225(b)(2)(A). Because “the INA defines a ‘special immigrant’ as ‘an immigrant who is present in the United States,’” an award of SIJS confirms that a noncitizen is not “arriving” or “seeking admission.” *Rodriguez*, 747 F. Supp. 3d at 916 (concluding that a noncitizen who had entered the United States years earlier as an “arriving alien” but had then been granted SIJS was not detained under § 1225(b)(2)(A) (citing 8 U.S.C. § 1101(a)(27)(J)); *see also Sarmiento*, 2025 WL 3091140, at *3 (similar). Moreover, SIJS status “bespeak[s] a substantial legal relationship

between [SIJS beneficiaries] and the United States—a relationship far more significant than’ the relationship possessed between an initial entrant into this country.” *Del Cid Del Cid v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150, at *16 (W.D. Pa. Oct. 23, 2025).

72. Third and more broadly, courts across the United States have overwhelmingly concluded that noncitizens like Gurikman who entered the United States without inspection and are detained by ICE for removal proceedings while they are residing in the United States are detained under 8 U.S.C. § 1226, not § 1225(b)(2)(A)—and thus entitled to a bond hearing. *See, e.g., Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *13–14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way); *Nava Hernandez v. Baltazar, et. Al.*, 1:25-cv-03094-CNS, p.9, *Lopez Benitez*, 2025 WL 2371588, at *3.
73. As this renders his detention unlawful from its inception, he should be released forthwith. *See Nava Hernandez v. Baltazar, et. Al.*, 1:25-cv-03094-CNS, p.9, *Lopez Benitez*, 2025 WL 2371588, at *3.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;
- (3) Declare that Petitioner’s arrest and detention violates the Due Process Clause of the Fifth Amendment; the Fourth Amendment; and the INA and implementing regulations;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or schedule a bond hearing before an immigration judge and, at such hearing, require the

government to justified continued detention by clear and convincing evidence and, if it cannot, afford Petitioner release on bond or conditional parole;

(5) Order that Respondents cannot re-detain Petitioner without notice and a pre-deprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence;

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

(7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Leanne Reetz Hightower
Leanne Reetz Hightower
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5660 Greenwood Plaza Boulevard
Suite 445
Greenwood Village, CO 80111
Counsel for Petitioner

Dated: April 28, 2026

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

I represent Petitioner, Gurikman Singh, 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.

Dated: April 28, 2026

s/ Leanne Reetz Hightower
Leanne Reetz Hightower