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5 **UNITED STATES DISTRICT COURT**
6 **SOUTHERN DISTRICT OF CALIFORNIA**

8 DAVINDER SINGH,

9 Petitioner,

10 v.

11 WARDEN, Facility Administrator of Imperial
12 Regional Adult Detention Facility;

13 SERGIO ALBARRAN, Acting Field Office
14 Director of the San Francisco Immigration and
Customs Enforcement Office;

15 TODD LYONS, Acting Director of United
16 States Immigration and Customs Enforcement;

17 MARKWAYNE MULLIN, Secretary of the
18 United States Department of Homeland
Security,

19 TODD BLANCHE, Attorney General of the
20 United States, acting in their official capacities,

21 Respondents.
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CASE NO.: 26-cv-02622-DMS-SBC

**REPLY TO RESPONDENTS'
RETURN TO PETITION**

FOR A WRIT OF HABEAS CORPUS

□

INTRODUCTION

Petitioner, Davinder Singh ("Mr. Singh"), by and through his undersigned counsel, hereby files this Reply to Respondents' Return to Petition for a Writ of Habeas Corpus.

Respondents argue that Mr. Singh is an "applicant for admission" under 8 U.S.C. § 1225, subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), even though Mr. Singh was previously released from immigration custody and has been residing in the United States pursuant to that release.

Notably, the Government itself acknowledges that this Court, and courts in this District, have repeatedly rejected the Government's mandatory detention theory under the same and similar facts. See ECF No. 5 at 2 (citing *Arias Torres v. Bondi*, No. 25-cv-2457-BAS-MSB, 2025 WL 3214773 (S.D. Cal. Nov. 18, 2025); *Martinez Lopez v. LaRose*, No. 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025), and numerous others). Having conceded that its legal position is contrary to this Court's settled precedent, and that the facts here are not materially distinguishable from those prior cases, the Government does not oppose the petition and defers to the Court on the appropriate relief. ECF No. 5 at 3.

Nevertheless, Mr. Singh respectfully submits this reply to make clear why this Court should grant the petition and release the Petitioner.

ARGUMENT

1) Mr. Singh Is Not an Applicant for Admission Under 8 U.S.C. § 1225(b)

The Government's Return asserts that Mr. Singh is subject to mandatory detention under § 1225(b)(2)(A) as an "applicant for admission." See ECF No. 5 at 2. This position is without merit. The plain meaning of "seeking admission" does not encompass individuals who have been

1 released from custody and have resided in the United States. See *Valencia Zapata v. Kaiser*, No.
2 25-CV-07492-RFL, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025). Mr. Singh was
3 previously released and placed into regular removal proceedings under 8 U.S.C. § 1229a. He has
4 been living in the United States pursuant to that release. He cannot plausibly be described as
5 "seeking admission" at this juncture.

6
7 The Government's contrary interpretation has been overwhelmingly rejected by district
8 courts. The Southern District of California alone has issued more than a dozen decisions on
9 identical facts, each holding that § 1225(b)(2) does not authorize mandatory detention for
10 noncitizens who have been released and placed in § 1229a proceedings. See ECF No. 5 at 2-3
11 (collecting cases, including *Beltran v. Noem*; *Garcia v. Noem*, 803 F. Supp. 3d 1064 (S.D. Cal.
12 2025); *Lucas-Miguel v. LaRose*; *Prieto-Cordova v. LaRose*, 2025 WL 3228953 (S.D. Cal. Nov.
13 19, 2025), among many others).

14
15 Because Mr. Singh was released from immigration custody, placed into § 1229a
16 proceedings, and has resided in the United States, his detention is governed by the general
17 detention authority of 8 U.S.C. § 1226(a), not the mandatory detention provision of § 1225(b).
18 See *Martinez Hernandez v. Andrews*, No. 1:25-CV-01035 JLT HBK, 2025 WL 2495767, at *6
19 (E.D. Cal. Aug. 28, 2025).

20 21 22 **2) Mr. Singh's Re-Detention Violates His Procedural Due Process Rights**

23 The Due Process Clause of the Fifth Amendment guarantees that the government may not
24 deprive any person of liberty without due process of law. U.S. Const. amend. V. "Freedom from
25 imprisonment -- from government custody, detention, or other forms of physical constraint -- lies
26 at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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1 The guarantee applies to all persons in the United States, including noncitizens regardless of
2 immigration status. *Id.* at 693.

3 **I. Mr. Singh Has a Protected Liberty Interest in Remaining Out of Custody.**

4 Individuals who have been released from custody, even conditionally, retain a protected
5 liberty interest under the Fifth Amendment. *See Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)
6 ("the liberty of a parolee, although indeterminate, includes many of the core values of
7 unqualified liberty" and "must be seen as within the protection of" due process). District courts in
8 this Circuit have consistently held that noncitizens previously released from immigration custody
9 have a constitutionally protected liberty interest in remaining free. *See, e.g., Doe v. Becerra*, 787
10 F. Supp. 3d 1083, 1093 (E.D. Cal. 2025).

11
12 Mr. Singh was released from immigration custody under § 1226(a). His re-detention
13 without a prior hearing deprived him of a liberty interest protected by the Fifth Amendment.
14 ICE's authority to re-arrest a noncitizen at liberty is always constrained by due process. *See*
15 *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

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17 **II. Mr. Singh Was Denied Adequate Procedural Protections Under the Mathews**
18 **Factors.**

19 Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the due process required in any given
20 situation requires consideration of (1) the private interest affected; (2) the risk of erroneous
21 deprivation and value of additional safeguards; and (3) the government's interest. All three
22 factors favor Mr. Singh.

23
24 First, Mr. Singh's private interest freedom from imprisonment is fundamental. The
25 Ninth Circuit has recognized that an immigration detainee's liberty interest is unquestionably
26 substantial. *See Hernandez*, 872 F.3d at 993.

1 Second, the risk of erroneous deprivation is high. Without a pre-deprivation hearing,
2 there is no neutral adjudicator to assess whether detention is actually warranted. Immigration
3 detention "must be justified by either (1) dangerousness or (2) flight risk." *Zadvydas*, 533 U.S. at
4 690; *Hernandez*, 872 F.3d at 994. The Government has made no such showing here.

5
6 Third, the Government's interest does not outweigh the substantial liberty interest at stake
7 when there is no demonstrated danger or flight risk. Detention that lacks "reasonable relation" to
8 preventing flight or protecting the public becomes impermissibly punitive. *See Jackson v.*
9 *Indiana*, 406 U.S. 715, 738 (1972).

10
11 Courts in this Circuit and District and other Districts have consistently held that re-
12 detention of a released noncitizen without a pre-deprivation hearing violates due process. *See,*
13 *e.g., Arzate v. Andrews*, 2025 WL 2230521 (E.D. Cal. Aug. 4, 2025) (enjoining re-detention
14 without a bond hearing at which the government must prove by clear and convincing evidence
15 the petitioner is a flight risk or danger); *Pinchi v. Noem*, 2025 WL 1853763 (N.D. Cal. July 4,
16 2025); *Enamorado v. Kaiser*, No. 25-CV-04072-NW, 2025 WL 1382859, at *3 (N.D. Cal. May
17 12, 2025).

18
19 The proper remedy is to return Mr. Singh to the status quo ante release until a proper
20 bond hearing has been conducted.

21 22 **3) The Court Has Jurisdiction to Grant the Relief Requested**

23 The Government's Return does not raise a jurisdictional challenge, and none is warranted.
24 Under 28 U.S.C. § 2241, this Court has authority to hear a petition asserting unlawful custody in
25 violation of the Constitution or laws of the United States. Mr. Singh does not challenge his
26 removal order or the initiation of proceedings. He challenges only the lawfulness of his current
27 detention precisely the relief habeas is designed to address.
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2 **4) Should the Court Order a Bond Hearing, the Burden Is on the Government**

3 If the Court orders a bond hearing, the burden should rest on the Government not Mr.
4 Singh to prove by clear and convincing evidence that he is a flight risk or danger to the
5 community. Where a substantial liberty interest is at stake, this standard is required by the Due
6 Process Clause. *See Singh v. Andrews*, No. 1:25-cv-00801-KES-SKO, 2025 WL 1918679, at *9
7 (E.D. Cal. July 11, 2025); *Pinchi*, 2025 WL 1853763, at *3-4; *Ortega v. Bonnar*, 415 F. Supp. 3d
8 963, 970 (N.D. Cal. 2019); *Diep v. Wofford*, No. 1:24-CV-01238-SKO, 2025 WL 604744, at *4
9 (E.D. Cal. Feb. 25, 2025).

10
11 **CONCLUSION**

12 For the foregoing reasons, and consistent with this Court's own repeated precedent on
13 materially identical facts, Mr. Singh respectfully requests that the Court grant the Petition for a
14 Writ of Habeas Corpus, order his immediate release.

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18 Date: May 20, 2026

Respectfully Submitted,
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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I hereby certify that on May 20, 2026, I filed the foregoing Reply to Respondents' Return to Petition for a Writ of Habeas Corpus electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Simranjit Kaur
/s/ ()
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