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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 **In the Matter of**

11 **Sahil Kumar**

12 
13 **Petitioner**

14 **'26CV3134 DMS BJW**

15 **PETITION FOR WRIT OF**
16 **HABEAS CORPUS**

17 **ORAL ARGUMENT**
18 **REQUESTED**

19 **EXPEDITED HEARING**
20 **REQUESTED**

21 **Warden of Imperial Regional Detention Facility)**
22 **Secretary of the U.S. Department)**
23 **of Homeland Security)**
24 **Attorney General of the United)**
25 **States)**
26 **U.S Immigration Customs Enforcement)**
27 **U.S. Department of Homeland Security)**
28 **In their official capacities)**
Respondents)



Introduction

1. Petitioner respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to challenge the legality of his continued detention by Respondents at the Imperial Regional Detention Facility in Calexico, California.
2. Petitioner is a 22-year-old national of India and entered the United States on or about May 23, 2024, at or near Mooers Forks, New York, without admission or parole, seeking refuge from political persecution in India.
3. Petitioner was taken into ICE custody and transferred to the Imperial Regional Adult Detention Facility in Calexico, California on or about May 12, 2026.
4. Petitioner has no criminal history and poses neither a danger to the community nor a flight risk.
5. Petitioner is currently detained at the Imperial Regional Detention Facility and has not received a constitutionally adequate bond hearing providing a meaningful opportunity for release.
6. Petitioner is detained pursuant to 8 U.S.C. § 1226(a). He is not subject to mandatory detention under 8 U.S.C. § 1226(c), nor is he detained under 8 U.S.C. § 1225(b). His detention is discretionary and therefore requires a constitutionally adequate individualized custody determination.
7. Petitioner’s continued detention without a constitutionally sufficient custody determination violates due process.
8. Petitioner seeks immediate release.
9. Petitioner applied for asylum before United States Immigration authorities. Respondents commenced removal proceedings against Petitioner in Immigration court, entitling Petitioner to present an asylum claim with the due process rights under 8 U.S.C. § 1229a.



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Yet, Respondents now seek to eject Petitioner from Petitioner’s own asylum case and to detain petitioner so that they can rapidly deport Petitioner under an entirely separate law. Respondents’ interpretation effectively denies Petitioner the procedural protections guaranteed by the Fifth Amendment and is inconsistent with settled constitutional law.

10. The U.S. Constitution requires Respondents to provide Petitioner with the rights available to Petitioner when Petitioner filed an application for asylum.

11. This Court should grant this petition for a Writ of Habeas Corpus. Petitioner asks that this Court find that Respondents’ attempts to continuously detain Petitioner are a violation of due process.

JURISDICTION

12. Petitioner is in the physical custody of Respondents and is detained at the Imperial Regional Detention Facility, Calexico, California.

13. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C § 1101 *et. seq.*

14. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C § 1331 (federal question), and Article 1, § 9 cl 2. Of the United States Constitution (Suspension Clause).

15. This Court may grant relief under the habeas corpus statutes, 28 U.S.C § 2241, the Declaratory Judgment Act, 28 U.S.C § 2201 *et. seq.*, the All Writs Act, 28 U.S.C § 1651, and the Immigration and Nationality Act, 8 U.S.C § 1252(e)(2).

16. The Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States.



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17. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. § 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839-41 (2018).

VENUE

18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Venue lies in the United States District Court for the Southern District of California, the judicial district in which Petitioner is detained.

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

CUSTODY

20. Petitioner is in the physical custody of the Department of Homeland and the U.S. Immigration and Customs Enforcement (ICE). At the time of this petition, Petitioner is detained at the Imperial Regional Detention Facility, Calexico, California. Petitioner is under the direct control of Respondents and their agents.

REQUIREMENTS OF 28 U.S.C 2243

21. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondent’s “forthwith,” unless the petitioner is not entitled to relief.



1 28 U.S.C § 2243. If an OSC is issued, the Court must require Respondents to file a return
2 “within three days unless for good cause additional time, not exceeding twenty days, is
3 allowed.” *Id.*

4 22. The habeas statute has long been recognized by Courts for its significance in protecting
5 individuals from unlawful detention in the U.S. The Great Writ has been referred to as
6 “perhaps the most important writ known to the constitutional law of England, affording as
7 it does a swift and imperative remedy to all cases of illegal restraint or confinement.” *Fay*
8 *v. Noia*, 372 U.S. 391, 400 (1963).
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11 **PARTIES**

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13 23. Petitioner is a citizen of India who is currently detained by ICE in California following his
14 recent placement into ICE custody in May 2026. Since that time, Petitioner has sought
15 relief from removal in Immigration Court.

16 24. Respondent Warden of the Imperial Regional Detention Facility has immediate physical
17 custody of Petitioner pursuant to the facility’s agreement with U.S. Immigration and
18 Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
19 Respondent is a legal custodian of Petitioner.
20

21 25. Respondent the Secretary of the Department of Homeland Security (DHS) and has
22 authority over the actions of all other DHS Respondents in this case, as well as all
23 operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged
24 with faithfully administering the immigration laws of the United States.
25

26 26. Respondent the Attorney General of the United States, and as such has authority over the
27 Department of Justice and is charged with faithfully administering the immigration laws
28 of the United States.

1 27. Respondent U.S Immigration Customs Enforcement is the federal agency responsible for
2 custody decisions relating to non-citizens charged with being removable from the United
3 States, including the arrest, detention, and custody status of non-citizens.

4 28. Respondent U.S. Department of Homeland Security (DHS) is the federal agency
5 responsible for implementing and enforcing the INA, including the detention of
6 noncitizens.
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8 29. This action is commenced against all Respondents in their official capacities.
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10 **LEGAL FRAMEWORK**

11 30. The Due Process Clause of the Fifth Amendment provides Petitioner with important
12 protections regarding his detention. As the Supreme Court has explained, “[f]reedom from
13 imprisonment- from government custody, detention, or other forms of physical restraint-
14 lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*,
15 533 U.S. 678, 690 (2001).
16

17 31. Since the Supreme Court’s *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018) decision, the
18 Ninth Circuit has expressed “grave doubt” that “any statute that allows for arbitrary
19 prolonged detention without any process is constitutional or that those who founded our
20 democracy precisely to protect against the government’s arbitrary deprivation of liberty
21 would have thought so.” *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018).
22

23 32. To guarantee against such arbitrary detention and to guarantee the right to liberty, due
24 process requires “adequate procedural protection” that ensure the government’s asserted
25 justification for a noncitizen’s physical confinement “outweighs the individual’s
26 constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at
27 690.
28



1 33. In the immigration context, the Supreme Court has recognized only two valid purposes for
2 civil detention; to mitigate the risks of danger to the community and to prevent flight. The
3 government may not detain a noncitizen based on any other justification.

4 34. To justify immigration detention, the government must bear the burden of proof by clear
5 and convincing evidence that the noncitizen is a danger or flight risk. See *Singh v. Holder*,
6 638 F.3d 1196, 1203 (9th Cir. 2011).

7 35. The requirement that the government bear the burden of proof by clear and convincing
8 evidence is also supported by application of the three-factor balancing test from *Mathews*
9 *v. Eldridge*, 424 U.S. 319, 335 (1976).

10 36. First, incarceration deprives noncitizens of a profound liberty interest – one that always
11 requires some form of procedural protections. *Diouf*, 634 F.3d at 1091-92.

12 37. Second, the risk of error is great where the government is represented by trained attorneys
13 and noncitizens are often unrepresented and frankly lack English proficiency. See
14 *Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982). Moreover, Respondents detain
15 noncitizens in prison-like conditions that severely hamper their ability to obtain legal
16 assistance, gather evidence, and prepare for a bond hearing.

17 38. Third, placing the burden on the government imposes minimal cost or inconvenience, as
18 the government has access to the noncitizen's immigration records and other information
19 that it can use to make its case for continued detention.

20 39. Here, the Respondents can neither show that the continued detention of the Petitioner is
21 reasonably related to the original purpose and the Mathews tests are satisfied. Similarly,
22 no procedural safeguards are offered to those who remain in custody.

23 40. Under the three-part test of Mathews, 424 U.S., the balance overwhelmingly favors
24 Petitioner. His interest in liberty is paramount.
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- 1 41. Immigration detention is a form of civil confinement that “constitutes a significant
2 deprivation of liberty that requires due process protection.” *Addington v. Texas*, 441 U.S.
3 418, 4253 (1979).
- 4 42. The Refugee Act of 1980 establishes the statutory right to apply for asylum and reflects
5 Congress’s intent that individuals feeling persecution be afforded meaningful procedural
6 protections while their claims are adjudicated, including protection from arbitrary
7 detention that would undermine access to asylum adjudication. Refugee Act of 1980, §
8 101(a), Pub. L. No. 96-212, 94 Stat. 102 (1980).
- 9 43. Refugee Act reflects a legislative purpose “to give ‘statutory meaning to our national
10 commitment to human rights and humanitarian concerns.’” *Duran v. INS*, 756 F.2d 1338,
11 1340 n.2 (9th Cir. 1985).
- 12 44. The Refugee Act established the right to apply for asylum in the United States and defines
13 the standards for granting asylum. It is codified in the INA.
- 14 45. The INA gives the Attorney General or the Secretary of Homeland Security discretion to
15 grant asylum to noncitizens who satisfy the definition of “refugee.” Under this definition,
16 individuals are generally eligible for asylum if they have experienced past persecution or
17 have a well-founded fear of future persecution on account of race, religion, nationality,
18 membership in a particular social group, or political opinion and if they are unable or
19 unwilling to return to and avail themselves of the protection of their homeland because of
20 that persecution of fear. 8 U.S.C. § 1101(a)(42)(A).
- 21 46. A grant of asylum may be discretionary, but the right to apply for asylum is not. The
22 Refugee Act broadly affords a right to apply for asylum to any noncitizen “who is
23 physically present in the United States or who arrives in the United States.” 8 U.S.C. §
24 1158(a)(1).
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1 47. Because of the life-or-death stakes that are often present in asylum matters, the statutory
2 right to apply for asylum is robust. The right includes the right to counsel, at no expense to
3 the government, the right to notice, and the right to access information in support of an
4 application.

5
6 48. Noncitizens who seek asylum in the U.S. are guaranteed Due Process under the Fifth
7 Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

8 49. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration
9 court before they can be removed from the United States. 8 U.S.C. § 1229a. Noncitizens
10 may seek administrative appellate review before the Board of Immigration Appeals of
11 removal orders against them and judicial review in federal court upon a petition for
12 review. 8 U.S.C § 1252(a) *et seq.*

13
14 50. Immigration detention is civil, not punitive, and is constitutionally permissible only to
15 serve a legitimate, nonpunitive purpose, such as preventing flight or protecting the
16 community. Where due process requires continued detention, the government must justify
17 it through an individualized determination of flight risk or danger. *Zadvydas v. Davis*, 533
18 U.S. 678, 690 (2001).

19 51. Immigration detention is civil, not punitive, and must bear a reasonable relationship to its
20 purported purposes, such as ensuring appearance at proceedings or protecting the
21 community.

22
23 52. The Due Process Clause of the Fifth Amendment limits the government's authority to
24 detain noncitizens without adequate procedural safeguards. Prolonged detention without a
25 meaningful opportunity for release violates due process, particularly where the individual
26 has no criminal history or has demonstrated eligibility for relief from removal.

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28 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

- 1 53. Respondents' continued detention of Petitioner constitutes final agency action that is
2 arbitrary and capricious because it reflects a failure to engage in reasoned decision-
3 making and to consider legally required factors, including Petitioner's lack of criminal
4 history, demonstrated compliance with proceedings, and eligibility for release under §
5 1226(a).
6
- 7 54. Petitioner has exhausted his administrative remedies to the extent required by law.
8 He has fully cooperated with Respondents and has not delayed or obstructed his detention.
9 Petitioner's only remedy is by way of this judicial action.
- 10 55. Presently Immigration Judge's hold the position that they lacked authority to grant bond
11 under *Matter of Yajure Hurtado*.
- 12 56. No further administrative remedy is available that would address the constitutional
13 violations raised in this petition.
- 14 57. Administrative exhaustion should be excused because further efforts to obtain custody
15 review through Immigration Court would be futile and inadequate to remedy Petitioner's
16 ongoing constitutional injuries.
17

18 **STATEMENT OF FACTS**

- 19 58. Petitioner is a citizen and national of India.
- 20 59. Petitioner was threatened because of his support for the Indian National Lok Dal
21 ("INLD") Party in India for his political beliefs. Fearing for his life, he sought protection
22 in the United States.
23
- 24 60. Petitioner entered the United States on or about May 23, 2024 at or near Mooers Forks,
25 New York..
26
- 27 61. Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a and
28 filed his Notice to Appear.



1 62. Respondents alleged that Petitioner was inadmissible to the United States and commanded
2 that Petitioner appear for a hearing in the immigration court.

3 63. Prior to his detainment in Imperial Regional Detention Facility, Petitioner resided in South
4 Richmond Hill, NY.

5 64. Petitioner filed an I-589 Application for Asylum, Withholding of Removal, and CAT
6 protection before the Immigration Court.

7 65. Petitioner has timely and consistently appeared for all hearings in Immigration Court.

8 66. Petitioner is now detained in the Imperial Regional Detention Facility without an adequate
9 justification.

10 67. Currently Immigration Judge are expressly holding that, pursuant to *Matter of Yajure*
11 *Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Immigration Courts lack authority to conduct
12 an individualized custody determination and that any request for bond would be denied as
13 a matter of law.

14 68. Because the Immigration Judge took the position that she lacked jurisdiction to provide
15 any meaningful custody review and that denial of bond was inevitable under *Matter of*
16 *Yajure Hurtado*, Petitioner did not file a bond request, as doing so would have been futile.
17 As a result, Petitioner has no available administrative forum in which to challenge his
18 continued detention, rendering habeas corpus the only remaining mechanism to vindicate
19 his constitutional rights.

20 69. Petitioner has no criminal history.

21 70. Petitioner has no history of being a public threat.

22 71. Petitioner is not a flight risk and has every incentive to meet all requirements for his
23 asylum matter.

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CLAIMS FOR RELIEF

Count One

Constitutional Claim: Violation of Fifth Amendment Right to Due Process

Procedural Due Process

72. Petitioner restates and realleges all paragraphs as if fully set forth here.

73. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

74. Civil immigration detention is only permissible where it bears a “reasonable relation to the purpose for which the individual was committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972). Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

75. Petitioner has been detained without receiving a constitutionally adequate bond hearing at which the government bears the burden of proof. Detention of this length, without meaningful procedural safeguards and without the Government bearing the burden of proof by clear and convincing evidence, constitutes prolonged detention in violation of the Fifth Amendment.

76. In the Ninth Circuit, prolonged immigration detention without a constitutionally adequate bond hearing violates due process. See *Singh v. Holder*, 638 F.3d 116, 1203-05 (9th Cir. 2011) (requiring bond hearings with procedural protections); *Aleman Gonzalez v. Barr*, 955 F.3d 762, 770 (9th Cir. 2020) (recognizing constitutional limitation on prolonged detention). Where detention becomes prolonged, due process requires the Government to justify continued custody at an individualized hearing before a neutral decisionmaker.



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77. Petitioner has been detained for a prolonged period despite having no criminal record. Petitioner also maintains strong ties to the community. Petitioner also has a pending and viable form of immigration relief through his asylum application.

78. Petitioners’ detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

79. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

80. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

81. Petitioner’s continued detention without a meaningful opportunity for release violates the Due Process Clause of the Fifth Amendment.

82. Petitioner’s detention is excessive and unconstitutional.

83. Petitioner has not received a bond hearing that satisfies due process requirements. Any bond hearing must place the burden of proof on the government to justify continued detention by clear and convincing evidence. The denial of bond without such safeguards violates due process. Here, the government’s arguments that the Petitioner is a flight risk and a danger to the community are unwarranted.

Count Two

Violation of the Immigration and Nationality Act Detention After Removal Proceedings

84. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

85. Petitioner’s continued detention violates the Immigration and Nationality Act.



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- 86. The INA does not authorize indefinite or unreasonably prolonged detention.
- 87. Respondents' continued detention of Petitioner violates the Immigration and Nationality Act ("INA) because Petitioner, who has a pending asylum application and was apprehended within the interior of the United States, is detained pursuant to 8 U.S.C § 1226(a), which authorizes discretionary detention and contemplates individualized custody determinations. The Immigration Judges jurisdictional ruling does not convert Petitioners detention into mandatory detention for constitutional purposes, nor does it eliminate the Government's obligation to provide a constitutionally adequate custody hearing.
- 88. Since being taken into custody, Respondents have failed to provide a constitutionally adequate bond hearing or otherwise justify continued detention
- 89. The mandatory detention provision of 8 U.S.C § 1225(b)(2) does not apply to noncitizens residing in the United States who entered without inspection and were not placed in expedited removal, and Petitioner is not subject to any other mandatory detention statute, including §1225(b)(1), 1226(c), or 1231.
- 90. By detaining Petitioner for an unreasonably prolonged period without a meaningful opportunity to seek release on bond or parole, Respondents have exceeded their statutory authority under the INA and are unlawfully restraining Petitioner's liberty.

Count Three

Violation of the Administrative Procedure Act

- 91. Under the Administrative Procedure Act, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. 706(2)(A).



1 92. An action is an abuse of discretion if the agency entirely failed to consider an important
2 aspect of the problem, offers an explanation for its decision that runs counter to the
3 evidence before the agency, or is so implausible that it could not be ascribed to a different
4 in view or the product of agency expertise. *Nat'l Ass'n of Home Builders v. Defs. Or*
5 *Wildlife*, 551 U.S. 644, 658 (2007).
6

7 93. To survive an APA challenge, the agency must articulate a satisfactory explanation for its
8 action, including a rational connection between the facts found and the choice made.
9 *Dep't of Com. V. New York*, 139 S. Ct. 2551, 2569 (2019).
10

11 94. On information and belief, Respondents have made no substantiated finding that
12 Petitioner is a danger to the community.

13 95. On information and belief, Respondents have made no substantiated finding that the
14 Petitioner is a flight risk, in fact, the Petitioner has never failed to appear for immigration
15 proceedings.

16 96. By detaining the Petitioner, the Respondents have abused their discretion.
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19 **PRAYER FOR RELIEF**

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

- 21 1. Assume jurisdiction over this matter;
22 2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition
23 should not be granted within three (3) days;
24 3. Declare that Petitioner's detention without an individualized determination violates the
25 Due Process Clause of the Fifth Amendment;
26 4. Issue a Writ of Habeas Corpus ordering the Respondents to release Petitioner from
27 custody; hold a hearing if warranted; determine that Petitioners' detention is not
28



1 justified because the government has not established by clear and convincing
2 evidence that Petitioner presents a risk of flight or a danger to the community in
3 light of the available alternatives;

4 5. Issue an Order prohibiting the Respondents from transferring Petitioner from the
5 district without the court's approval;

6 6. Declare that Petitioner's continued detention is unconstitutional and unlawful because
7 it is not reasonably related to any legitimate purpose of immigration detention;

8
9 7. In the alternative, should the Court determine that immediate release is not warranted,
10 order Respondents to provide Petitioner with an individualized
11 bond hearing before an impartial immigration judge within fourteen (14) days, at
12 which the Government bears the burden of proving by clear and convincing
13 evidence that continued detention is justified.
14

15 8. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C.
16 §§ 702 and 706, as arbitrary, capricious, and not in accordance with law;

17 9. In the alternative, should the Court determine that immediate release is not warranted,
18 order Respondents to provide Petitioner an individualized bond hearing before
19 an impartial immigration judge within 14 days, at which the government bears the
20 burden to justify continued detention by clear and convincing evidence;

21 10. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice
22 Act, 28 U.S.C. § 2412, and any other applicable authority; and

23 11. Grant such other and further relief as the Court deems just and proper.
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25
26 Respectfully Submitted,

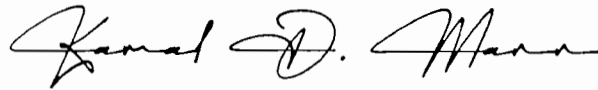
Dated this 19th day of May 2026.

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Kamal D. Mann

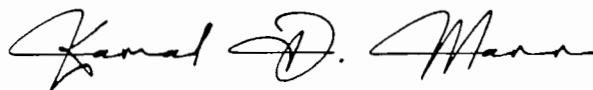
THE MANN LAW OFFICES, P.C.

Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C 2242

I am submitting this verification on behalf of the Petitioner because I am the attorney for
Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this
Petition. Based on those discussions, I hereby verify that the statements made in the attached
Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 19th day of May 2026.



Kamal D. Mann

THE MANN LAW OFFICES, P.C.

Attorney for Petitioner

