

HIMANSHU KHATRI (SBN: 348453)
KHATRI LAW
420 GARCES DR
SAN FRANCISCO, CA 94132
(415) 917-5513

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

PARDEEP KUMAR,

Petitioner

V.

Civil Action No.:

WARDEN, GOLDEN STATE ANNEX;
Enforcement and Removal
Operations (ERO); U.S.
Immigration and Customs
Enforcement (ICE); Department
of Homeland Security (DHS),

Respondent

PETITIONER'S EMERGENCY MOTION FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTION PENDING ADJUDICATION OF
PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

This case presents a straightforward but profoundly important constitutional question: whether the Government may abruptly revoke the liberty of a previously released asylum applicant after more than two years of successful compliance with immigration supervision without first providing constitutionally adequate procedures to determine whether renewed detention is necessary.

Petitioner Pardeep Kumar is a civil immigration detainee currently confined at the Golden State Annex in McFarland, California. He does not challenge the Government's authority to conduct removal proceedings, nor does he seek relief based solely upon the conditions of his confinement. Rather, Petitioner challenges the legality of his re-detention and continued detention under the Due Process Clause of the Fifth Amendment. Specifically, Petitioner contends that Respondents deprived him of his physical liberty after more than two years of successful release in the community without first providing notice, a hearing before a neutral decisionmaker, or any meaningful opportunity to challenge the necessity of detention.

1 The facts giving rise to Petitioner's detention are largely
2 undisputed. Petitioner entered the United States in May
3 2024 and was subsequently placed into removal proceedings.
4

5 Following his release from immigration custody, he remained
6 at liberty in the community while pursuing applications for
7 asylum, withholding of removal, and protection under the
8 Convention Against Torture. During the more than two years
9 that followed, Petitioner established a consistent and
10 uninterrupted record of compliance with immigration
11 supervision. He attended every ICE reporting appointment,
12 appeared at every immigration court hearing, remained
13 continuously available to immigration authorities, and
14 diligently pursued his claims for protection. He never
15 absconded. He never violated a reporting requirement. He
16 never failed to appear for a scheduled proceeding. He has
17 no criminal history whatsoever.
18

19 Most significantly, Petitioner voluntarily appeared at the
20 very ICE appointment that ultimately resulted in his
21 detention. That fact alone is powerful evidence that less
22 restrictive alternatives to detention had been successful.
23

24 Unlike cases involving fugitives, supervision violations,
25 or criminal conduct, Respondents possess direct evidence

1 that Petitioner was willing to comply with immigration
2 supervision while living in the community. Indeed,
3 Respondents permitted him to do exactly that for more than
4 two years.

5
6 Despite this demonstrated history of compliance, ICE
7 abruptly detained Petitioner on June 27, 2026 when he
8 appeared for a routine check-in appointment. No Immigration
9 Judge had determined that Petitioner posed a danger to the
10 community. No Immigration Judge had determined that he
11 represented a flight risk. No neutral decisionmaker
12 concluded that detention was necessary. Nor have
13 Respondents identified any changed circumstance occurring
14 during Petitioner's years of release that would explain why
15 detention suddenly became necessary after more than two
16 years of successful compliance.

17
18 The constitutional concerns arising from these facts are
19 substantial. The Due Process Clause protects all persons
20 within the United States against arbitrary deprivations of
21 physical liberty. As the Supreme Court has repeatedly
22 recognized, freedom from physical restraint occupies a
23 central place among the liberties protected by the
24 Constitution. See *Zadvydas v. Davis*, 533 U.S. 678, 690
25 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Those

1 protections do not disappear simply because the individual
2 subjected to detention is a noncitizen. To the contrary,
3 the Supreme Court has expressly recognized that the Due
4 Process Clause applies to all persons within the United
5 States, including noncitizens. *Zadvydas*, 533 U.S. at 693.

6
7 The need for immediate relief is particularly compelling
8 because Petitioner's detention has already caused severe
9 psychological deterioration. On June 28, 2026, one day
10 after his detention, Petitioner reported suicidal ideation
11 to detention staff. He explained that after spending more
12 than two years complying with every requirement imposed by
13 immigration authorities, he felt hopeless and overwhelmed
14 by his sudden incarceration. He further explained that he
15 fears return to India because he believes he will be harmed
16 or killed there. These injuries are neither speculative nor
17 remote. They are occurring now and continue to worsen with
18 each day of confinement.

19
20 Petitioner therefore seeks emergency relief preserving the
21 fundamental liberty interest at stake while this Court
22 adjudicates the merits of his habeas petition. Because
23 Petitioner has demonstrated a strong likelihood of success
24 on his constitutional claims, irreparable harm, a balance
25 of equities that tips sharply in his favor, and that the

1 requested relief serves the public interest, the Court
2 should order his immediate release pending adjudication of
3 this action. In the alternative, the Court should require
4 Respondents to provide a constitutionally adequate
5 individualized custody hearing before a neutral
6 decisionmaker within seven days.

7
8 **LEGAL STANDARD**

9
10 A temporary restraining order and preliminary injunction
11 are extraordinary remedies designed to prevent irreparable
12 injury pending adjudication on the merits. A plaintiff
13 seeking such relief must demonstrate that he is likely to
14 succeed on the merits, that he is likely to suffer
15 irreparable harm absent preliminary relief, that the
16 balance of equities tips in his favor, and that an
17 injunction serves the public interest. *Winter v. Natural*
18 *Resources Defense Council, Inc.*, 555 U.S. 7, 20 (2008).

19
20 Within the Ninth Circuit, these factors are evaluated under
21 a sliding-scale approach pursuant to which a strong showing
22 on one factor may offset a weaker showing on another. Thus,
23 where serious questions going to the merits are raised and
24 the balance of hardships tips sharply in the movant's
25 favor, preliminary relief remains appropriate so long as

1 the movant demonstrates irreparable harm and that the
2 requested relief serves the public interest. *Alliance for*
3 *the Wild Rockies v. Cottrell*, 632 F.3d 1127, 1134-35 (9th
4 Cir. 2011).

5
6 Each of the Winter factors strongly favors relief here.

7
8 **I. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS OF HIS**
9 **FIFTH AMENDMENT CLAIMS**

10
11 The Due Process Clause imposes meaningful constitutional
12 limits on the Government's authority to deprive individuals
13 of physical liberty. Although Congress possesses broad
14 authority over immigration matters, that authority does not
15 eliminate the fundamental constitutional principle that
16 freedom from bodily restraint lies at the heart of the
17 liberty protected by the Fifth Amendment. *Zadvydas*, 533
18 U.S. at 690; *Foucha*, 504 U.S. at 80. Indeed, the Supreme
19 Court has repeatedly emphasized that "[f]reedom from
20 imprisonment—from government custody, detention, or other
21 forms of physical restraint—lies at the heart of the
22 liberty that [the Due Process] Clause protects." *Zadvydas*,
23 533 U.S. at 690.

1 The constitutional defect in Petitioner's detention does
2 not arise merely from the fact that he is detained. Rather,
3 it arises from the manner in which Respondents revoked a
4 liberty interest that Petitioner had successfully exercised
5 for more than two years. Following his release by DHS,
6 Petitioner remained at liberty in the community while
7 pursuing relief from removal. During that period, he
8 established an uninterrupted record of compliance with
9 immigration supervision. He attended every reporting
10 appointment, appeared for all immigration proceedings,
11 remained available to immigration authorities, and
12 continued litigating his claims for protection. Most
13 significantly, he voluntarily presented himself at the ICE
14 appointment that ultimately resulted in his detention. The
15 Government therefore possesses direct evidence—not
16 speculation—that Petitioner can successfully comply with
17 immigration supervision while living in the community.
18 Despite that demonstrated history of compliance,

19
20 Respondents abruptly revoked Petitioner's liberty on June
21 27, 2026 without first providing any meaningful process
22 through which the necessity of detention could be
23 evaluated. No neutral decisionmaker determined that
24 Petitioner posed a danger to the community. No neutral
25 decisionmaker determined that he presented a risk of

1 flight. Indeed, Respondents have never identified any
2 changed circumstance occurring between Petitioner's release
3 and his re-detention that would explain why detention
4 suddenly became necessary after more than two years of
5 successful compliance. That omission is not merely factual;
6 it is constitutional. The Due Process Clause exists
7 precisely to guard against arbitrary deprivations of
8 liberty unsupported by individualized justification.

9
10 The Supreme Court's procedural due process jurisprudence
11 confirms that the Constitution requires more. Under *Mathews*
12 *v. Eldridge*, courts evaluating procedural due process
13 claims must balance the private interest affected by
14 governmental action, the risk of erroneous deprivation
15 under existing procedures, the probable value of additional
16 safeguards, and the governmental interests at stake. 424
17 U.S. 319, 335 (1976). Application of those factors strongly
18 favors Petitioner. The private interest implicated here—the
19 interest in freedom from physical confinement—is among the
20 most significant interests recognized by constitutional
21 law. The risk of erroneous deprivation is equally
22 substantial because Respondents deprived Petitioner of
23 liberty without any adversarial process capable of testing
24 whether detention was actually necessary. By contrast, the
25 procedural safeguard Petitioner seeks—an individualized

1 determination before a neutral decisionmaker—would impose
2 only a minimal burden while dramatically reducing the risk
3 of arbitrary detention.

4
5 These concerns are not theoretical. They have recently been
6 recognized by courts throughout the Eastern District of
7 California in cases involving the re-detention of
8 previously released noncitizens. In *Labrador-Prato v. Noem*,
9 No. 1:25-cv-01598-DC-SCR, 2025 WL 3458802 (E.D. Cal. Dec.
10 2, 2025), *Selis Tinoco v. Noem*, No. 1:25-cv-01762-DC-JDP,
11 2025 WL 3567862 (E.D. Cal. Dec. 14, 2025), and *D.L.C. v.*
12 *Wofford*, No. 1:25-cv-01996-DC-JDP, 2026 WL 25511 (E.D. Cal.
13 Jan. 5, 2026), courts recognized serious constitutional
14 concerns arising from the Government's decision to revoke
15 liberty previously granted to individuals who had
16 successfully complied with immigration supervision. While
17 those decisions arose in varying procedural postures, they
18 reflect a common constitutional principle: once the
19 Government has permitted an individual to remain free and
20 that individual has demonstrated sustained compliance with
21 supervision, the Due Process Clause imposes meaningful
22 constraints on the Government's ability to withdraw that
23 liberty without adequate procedural protections.

1 Respondents will likely contend that Petitioner's detention
2 is authorized by statute, most likely under 8 U.S.C. §
3 1225(b). That argument misses the point. Petitioner does
4 not dispute that Congress may authorize detention in
5 appropriate circumstances. The question presented here is
6 whether the Constitution permits Respondents to re-
7 incarcerate a previously released individual who has
8 demonstrated years of successful compliance without first
9 providing constitutionally adequate procedures to determine
10 whether detention is actually necessary. Neither *Jennings*
11 *v. Rodriguez*, 583 U.S. 281 (2018), nor *Department of*
12 *Homeland Security v. Thuraissigiam*, 591 U.S. 103 (2020),
13 resolved that question. To the contrary, *Jennings* expressly
14 declined to decide the constitutional issues implicated by
15 immigration detention. *Id.* at 314. Petitioner's claims
16 therefore remain governed by the foundational due process
17 principles articulated in *Mathews*, *Hamdi*, *Foucha*, and
18 *Zadvydas*.

19
20 **II. PETITIONER WILL SUFFER IMMEDIATE AND IRREPARABLE HARM**
21 **ABSENT EMERGENCY RELIEF**
22

23 The second Winter factor strongly favors relief because
24 Petitioner is presently suffering ongoing and irreparable
25 injury as a direct consequence of the detention challenged

1 in the Petition. Importantly, Petitioner does not rely upon
2 these injuries as independent conditions-of-confinement
3 claims. He does not contend that the Constitution has been
4 violated merely because detention is unpleasant or because
5 detention conditions could be improved. Rather, Petitioner
6 submits this evidence to demonstrate the severe and
7 continuing harm flowing directly from the deprivation of
8 liberty at issue in this case and to establish the urgent
9 need for judicial intervention while the Court adjudicates
10 the merits of his constitutional claims.

11
12 The Supreme Court has repeatedly recognized that freedom
13 from physical restraint occupies a unique place within our
14 constitutional framework. As the Court explained in
15 *Zadvydas*, “[f]reedom from imprisonment—from government
16 custody, detention, or other forms of physical restraint—
17 lies at the heart of the liberty” protected by the Due
18 Process Clause. 533 U.S. at 690. When a petitioner
19 demonstrates a substantial likelihood that he is being
20 detained in violation of the Constitution, each additional
21 day of confinement constitutes a continuing and irreparable
22 injury that cannot be adequately remedied after the fact.

23
24 Lost liberty cannot be restored. Time spent in
25 unconstitutional detention cannot be returned. For that

1 reason alone, courts routinely recognize that ongoing
2 constitutional deprivations support a finding of
3 irreparable harm. See *Hernandez v. Sessions*, 872 F.3d 976,
4 994-95 (9th Cir. 2017); *Melendres v. Arpaio*, 695 F.3d 990,
5 1002 (9th Cir. 2012).

6
7 The irreparable harm in this case extends well beyond the
8 deprivation of liberty itself. Petitioner's detention has
9 already produced severe and measurable psychological
10 consequences. After spending more than two years
11 successfully residing in the community, complying with
12 every reporting obligation imposed by immigration
13 authorities, and pursuing lawful relief through the
14 immigration court system, Petitioner was abruptly taken
15 into custody when he voluntarily appeared for a routine ICE
16 appointment. The sudden revocation of liberty following
17 years of successful compliance has had a devastating
18 emotional impact.

19
20 On June 28, 2026, one day after his detention, Petitioner
21 informed detention personnel that he was experiencing
22 suicidal ideation. Petitioner explained that he felt
23 overwhelmed by the realization that despite complying with
24 every requirement imposed upon him for more than two years,
25 he nevertheless found himself incarcerated without warning

1 and without any apparent mechanism through which he could
2 secure his release. According to Petitioner, the detention
3 destroyed his belief that compliance with immigration
4 supervision would permit him to safely pursue his claims
5 for protection while living in the community. He described
6 feeling hopeless, trapped, and emotionally devastated by
7 the abrupt loss of liberty.

8
9 The circumstances giving rise to Petitioner's psychological
10 deterioration are particularly significant because they are
11 directly connected to the constitutional injury challenged
12 in this proceeding. This is not a case in which a detainee
13 entered custody with preexisting mental-health concerns
14 unrelated to detention. Rather, Petitioner's distress arose
15 immediately following the deprivation of liberty challenged
16 in the Petition. Prior to his detention, Petitioner was
17 residing in the community, pursuing his asylum claim, and
18 attempting to build a stable future while awaiting
19 adjudication of his immigration case. His current
20 psychological condition is therefore inseparable from the
21 detention itself.

22
23 Petitioner's fear of return to India further compounds
24 these injuries. Petitioner seeks asylum, withholding of
25 removal, and protection under the Convention Against

1 Torture because he fears serious harm if returned to his
2 country of nationality. The prospect of prolonged detention
3 coupled with the possibility of eventual removal to a
4 country where he believes he faces persecution has
5 generated profound anxiety and despair. Those fears are not
6 speculative. They form the very basis of the protection
7 claims currently pending before the Immigration Court.

8
9 Equally troubling is the fact that Respondents possess
10 actual knowledge of Petitioner's deteriorating condition.
11 Petitioner reported suicidal ideation to detention
12 personnel on June 28, 2026. Respondents therefore cannot
13 plausibly claim ignorance of the harm being inflicted by
14 continued confinement. Despite possessing actual notice
15 that Petitioner's detention has resulted in severe
16 emotional distress and thoughts of self-harm, Respondents
17 continue to incarcerate him without any individualized
18 determination that detention remains necessary.

19
20 Federal courts consistently recognize that threats of self-
21 harm, severe psychological deterioration, and ongoing
22 constitutional deprivations constitute paradigmatic
23 examples of irreparable injury. Unlike purely economic
24 harms, these injuries cannot be adequately compensated
25 through monetary damages or remedied through retrospective

1 relief. If Petitioner's mental condition continues to
2 deteriorate while this litigation proceeds, no future
3 judgment can undo that damage. Nor can any subsequent
4 ruling compensate for the continuing deprivation of liberty
5 occurring each day that Petitioner remains confined.

6
7 The urgency of Petitioner's circumstances is heightened by
8 the absence of any countervailing justification for
9 continued detention. Respondents have not identified any
10 changed circumstance occurring during Petitioner's years of
11 successful release that would explain why detention
12 suddenly became necessary. Consequently, Petitioner is not
13 merely suffering the ordinary burdens associated with
14 lawful detention. He is suffering those burdens while
15 raising substantial constitutional questions regarding
16 whether his detention should have occurred at all.

17
18 For all of these reasons, Petitioner has established far
19 more than the mere possibility of irreparable injury. The
20 deprivation of liberty challenged in this action is
21 ongoing. Petitioner's psychological deterioration is
22 ongoing. His suicidal ideation has already been reported.
23 His emotional distress continues to worsen. The harm is
24 present, immediate, and irreparable. Accordingly, the
25

1 second Winter factor weighs overwhelmingly in favor of
2 emergency injunctive relief.

3
4 **III. THE BALANCE OF EQUITIES AND THE PUBLIC INTEREST**
5 **DECISIVELY FAVOR RELIEF**
6

7 The remaining Winter factors likewise weigh heavily in
8 Petitioner's favor. Where, as here, the Government is a
9 party, the balance-of-equities and public-interest
10 inquiries largely merge. *Nken v. Holder*, 556 U.S. 418, 435
11 (2009). Both considerations strongly support the issuance
12 of emergency relief.

13
14 On Petitioner's side of the scale stands one of the most
15 significant interests recognized by our constitutional
16 system: physical liberty. Petitioner remains incarcerated
17 despite having spent more than two years successfully
18 residing in the community while his removal proceedings
19 remained pending. During that period, he complied with
20 every obligation imposed upon him by immigration
21 authorities. He attended every reporting appointment,
22 appeared for all immigration proceedings, remained
23 continuously available to DHS, and diligently pursued his
24 applications for asylum, withholding of removal, and
25 protection under the Convention Against Torture. The

1 Government's own experience with Petitioner therefore
2 demonstrates that he is capable of complying with
3 immigration supervision outside of detention.

4
5 The harms presently facing Petitioner are not limited to
6 the deprivation of liberty itself. As discussed above,
7 Petitioner has reported suicidal ideation, severe emotional
8 distress, and profound psychological deterioration
9 following his detention. Those injuries continue to worsen
10 with each day of confinement. Consequently, denying relief
11 would not merely preserve the status quo. It would permit
12 the continued accumulation of constitutional, emotional,
13 and psychological injuries while this litigation proceeds.

14
15 By contrast, Respondents will suffer little, if any,
16 prejudice from Petitioner's release pending adjudication of
17 the Petition. The Government's principal interests in
18 immigration detention generally involve ensuring appearance
19 at future proceedings and protecting public safety. Neither
20 concern justifies continued incarceration on the present
21 record.

22
23 Petitioner has never been convicted of a crime. No
24 Immigration Judge has ever determined that he poses a
25 danger to the community. Respondents have never identified

1 any conduct suggesting that Petitioner presents a threat to
2 public safety. Accordingly, continued detention cannot be
3 justified on dangerousness grounds.

4
5 Nor does the record support any meaningful concern
6 regarding flight risk. To the contrary, Petitioner's
7 conduct overwhelmingly demonstrates the opposite. For more
8 than two years, he remained at liberty while removal
9 proceedings were pending. Throughout that period, he
10 attended every ICE reporting appointment and every
11 immigration court hearing. Most importantly, he voluntarily
12 appeared at the very appointment that resulted in his
13 detention. That fact is especially significant because it
14 provides direct evidence—not speculation—that Petitioner
15 was willing to comply with immigration supervision and
16 present himself when requested by the Government.

17
18 The Court should not overlook the practical significance of
19 that history. Immigration detention is ordinarily justified
20 by concerns that an individual may fail to appear for
21 future proceedings or otherwise evade supervision. Yet
22 Respondents already possess years of evidence demonstrating
23 that Petitioner did neither. He remained available. He
24 complied with supervision. He pursued his immigration case
25 through lawful channels. He appeared when instructed. If

1 those facts are insufficient to establish that less
2 restrictive alternatives can effectively serve the
3 Government's interests, it is difficult to imagine what
4 additional evidence could satisfy that burden.

5
6 Indeed, the central question animating this case remains
7 unanswered: what changed? Respondents permitted Petitioner
8 to remain free for more than two years. During that period,
9 he successfully complied with immigration supervision and
10 demonstrated that detention was unnecessary to ensure his
11 appearance. Respondents have identified no new fact, no
12 intervening misconduct, no supervision violation, and no
13 individualized determination explaining why detention
14 suddenly became necessary after years of successful
15 compliance. The absence of any identified changed
16 circumstance substantially weakens the Government's
17 equitable position and strongly supports immediate relief.
18 The public interest likewise favors the issuance of an
19 injunction. The public possesses a compelling interest in
20 ensuring that governmental actors comply with
21 constitutional limitations on their authority. See
22 *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012).

23
24 That interest is particularly strong where, as here, the
25 challenged governmental action involves the deprivation of

1 physical liberty. The public is not served by the continued
2 incarceration of individuals under procedures that raise
3 serious constitutional concerns. Nor is the public served
4 by allowing severe psychological harm to accumulate while
5 substantial constitutional questions remain unresolved.

6
7 Moreover, immigration detention is civil rather than
8 punitive in nature. *Zadvydas v. Davis*, 533 U.S. 678, 690
9 (2001). Because civil detention exists to further
10 legitimate regulatory objectives rather than to punish, the
11 public interest is best served when detention is employed
12 only to the extent necessary to achieve those objectives.

13
14 Where a detainee has already demonstrated years of
15 successful compliance with supervision and where
16 Respondents have failed to identify any changed
17 circumstance necessitating incarceration, continued
18 detention does little to advance the purposes underlying
19 civil immigration confinement.

20
21 Respondents retain numerous tools for ensuring Petitioner's
22 future appearance short of incarceration. Reporting
23 requirements, supervision conditions, electronic
24 monitoring, and other alternatives remain available should
25 the Government believe additional safeguards are warranted.

1 Consequently, granting relief would not leave Respondents
2 without means of protecting their interests. It would
3 merely require them to utilize measures less restrictive
4 than continued confinement while this Court resolves the
5 substantial constitutional questions presented by the
6 Petition.

7
8 Under these circumstances, the balance of hardships tips
9 decisively in Petitioner's favor, and the public interest
10 strongly supports immediate judicial intervention. The
11 final two Winter factors therefore weigh heavily in favor
12 of granting the requested temporary restraining order and
13 preliminary injunction.

14
15 **CONCLUSION**

16
17 For the foregoing reasons, Petitioner respectfully requests
18 that the Court grant this Emergency Motion for Temporary
19 Restraining Order and Preliminary Injunction and enter an
20 order directing Respondents to:

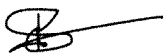
21
22 A) Immediately release Petitioner from immigration
23 detention pending adjudication of the Petition for Writ of
24 Habeas Corpus.

1 B) In the alternative, should the Court decline to order
2 immediate release, Petitioner respectfully requests that
3 the Court require Respondents to provide a constitutionally
4 adequate individualized custody hearing before a neutral
5 decisionmaker within seven (7) days, at which Respondents
6 bear the burden of demonstrating that continued detention
7 is necessary.

8
9 C) Petitioner further requests that the Court enjoin
10 Respondents from transferring him outside the jurisdiction
11 of this Court or removing him from the United States during
12 the pendency of these proceedings and grant such further
13 relief as the Court deems just and proper.

14
15 Respectfully submitted,

16 Dated: JULY 01, 2026

17 

18
19 HIMANSHU KHATRI, ESQ.

20 Attorney for Petitioner

21 420 Garces Drive

22 San Francisco, California 94132

23 (415) 917-5513

24 himanshu@khatri-law.com
25