

1 Gurpreet Kaur, Esq.
2 Kaur Legal Group, PC
3 674 County Square Dr, Suite 305
4 Ventura, CA 93003
5 Ph. 805-300-9003; Cell 909-997-4570
6 Fax: 805-716-6100
7 E-mail: gurpreetkauresq@gmail.com
8 *Attorney for Petitioner*

9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **EASTERN DISTRICT OF CALIFORNIA**

12 **GURWINDER SINGH**

13 **Petitioner,**

14 **v.**

15 **TONYA ANDREWS, Administrator of Golden**
16 **State Annex; DAVID J. VENTURELLA, Acting**
17 **Director of Immigration and Customs**
18 **Enforcement; KRISTI NOEM, Secretary of the**
19 **U.S. Department of Homeland Security; PAMELA**
20 **BONDI, Attorney General of the United States**

21 **Respondents.**

Civil Action No.

22 **MOTION FOR TEMPORARY**
23 **RESTRAINING ORDER AND**
24 **ORDER TO SHOW CAUSE RE**
25 **PRELIMINARY INJUNCTION**

26 **MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE**
27 **PRELIMINARY INJUNCTION**
28

I. INTRODUCTION

Petitioner Gurwinder Singh respectfully moves this Court for an emergency Temporary Restraining Order ("TRO") ordering his immediate release and prohibiting Respondents from continuing to detain him without constitutionally required process.

This case arises from a straightforward constitutional violation: Respondents revoked Petitioner's previously granted liberty without advance notice, without a meaningful opportunity to be heard, and without any individualized pre-deprivation determination.

Petitioner is a native and citizen of India who entered the United States without inspection on or about November 14, 2022. Shortly after entry, DHS briefly detained him pursuant to a Form I-200 but thereafter exercised its discretion to release him on an Order of Release on Recognizance ("ROR"), subject to Alternatives to Detention ("ATD") supervision and periodic ICE reporting requirements. DHS subsequently served Petitioner with a Notice to Appear on November 19, 2022, charging him solely under INA § 212(a)(6)(A)(i). Petitioner remains in pre-final-order removal proceedings under 8 U.S.C. § 1229a and has a timely filed application for asylum pending before the Immigration Court.

Since his release, Petitioner has fully complied with every condition imposed by DHS. He has appeared for every required ICE appointment, complied with every ATD requirement, maintained valid employment authorization based upon his pending asylum application, remained gainfully employed, and established significant family and community ties within the United States. Throughout the entire period of release, DHS knew where Petitioner lived, where he worked, and how to contact him.

On July 8, 2025, DHS issued Interim Guidance asserting that certain noncitizens who entered without inspection are subject to detention under 8 U.S.C. § 1225(b). Respondents have since relied upon that policy, together with *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure-Hurtado*, 29

1 I&N Dec. 216 (BIA 2025), to contend that previously released noncitizens are now subject to mandatory
2 detention without bond.

3 On June 27, 2026, while Petitioner was walking on a public street toward his vehicle, ICE officers
4 approached him and questioned him regarding his identity. Petitioner fully cooperated and advised the
5 officers that he had a pending asylum application, possessed valid employment authorization, and had
6 faithfully complied with every condition imposed by DHS since his release. The officers nevertheless
7 transported Petitioner to an ICE facility and placed him into immigration custody.
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9 Before revoking Petitioner's liberty, Respondents provided no advance notice, no opportunity to
10 consult with counsel, no opportunity to present information on his own behalf, no individualized custody
11 determination, and no pre-deprivation hearing before a neutral decisionmaker. Nor did Respondents
12 identify any violation of Petitioner's release conditions, any material change in circumstances, or any
13 individualized basis demonstrating that immediate detention was necessary.
14

15 Respondents now contend that Petitioner's detention is governed by 8 U.S.C. § 1225(b), while
16 Petitioner maintains that his detention is governed by 8 U.S.C. § 1226(a). Regardless of which statutory
17 provision ultimately applies, the Constitution does not permit the Government to revoke previously
18 granted liberty without affording constitutionally adequate procedural protections.
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20 This case does not concern Petitioner's initial detention following his entry into the United States.
21 Rather, it concerns Respondents' revocation of government-granted liberty after more than three years of
22 complete compliance with DHS supervision. The Constitution does not permit the Government to grant
23 liberty, encourage reliance upon that liberty, and then revoke it through summary detention without notice,
24 without a meaningful opportunity to be heard, and without individualized pre-deprivation process.
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26 Absent immediate relief, Petitioner will continue to suffer irreparable harm through unlawful
27 physical detention. A later custody review or bond hearing cannot cure a constitutional violation that was
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1 complete the moment Respondents revoked Petitioner's liberty without constitutionally adequate process.
2 Immediate release is necessary to restore the status quo ante and prevent Respondents from benefiting
3 from their unconstitutional conduct.

4 **II. FACTUAL BACKGROUND**

- 5 1. Petitioner Gurwinder Singh is a native and citizen of India currently in removal proceedings under
6 8 U.S.C. § 1229a.
- 7 2. Petitioner entered the United States without inspection on or about November 14, 2022.
- 8 3. Shortly after entry, DHS briefly detained Petitioner pursuant to a Form I-200, Warrant for Arrest
9 of Alien.
- 10 4. DHS thereafter exercised its discretion to release Petitioner on an Order of Release on
11 Recognizance, subject to Alternatives to Detention ("ATD") supervision and periodic ICE
12 reporting requirements.
- 13 5. On November 19, 2022, DHS served Petitioner with a Notice to Appear charging removability
14 solely under INA § 212(a)(6)(A)(i).
- 15 6. Petitioner remains in pre-final-order removal proceedings and has a timely filed application for
16 asylum pending before the Immigration Court.
- 17 7. Since his release, Petitioner has fully complied with every condition imposed by DHS.
- 18 8. Petitioner appeared for every ICE appointment, complied with every ATD requirement,
19 maintained continuous communication with immigration authorities, and never failed to report as
20 directed.
- 21 9. Petitioner never absconded, never violated any condition of release, and was never advised that he
22 had failed to comply with any requirement imposed by DHS.
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- 1 10. During this period, Petitioner maintained valid employment authorization based upon his pending
2 asylum application and remained gainfully employed.
- 3 11. Petitioner established substantial family, employment, and community ties within the United
4 States.
- 5 12. Throughout Petitioner's release, DHS knew Petitioner's residential address, employment
6 information, and contact information.
- 7 13. At no point during Petitioner's release did DHS advise Petitioner that his release was under review
8 or that DHS intended to revoke the liberty it had previously granted.
- 9 14. On July 8, 2025, DHS issued Interim Guidance asserting that certain noncitizens who entered
10 without inspection are subject to detention under 8 U.S.C. § 1225(b).
- 11 15. Respondents now rely upon that policy, together with *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025),
12 and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), to contend that individuals such as
13 Petitioner are subject to mandatory detention and ineligible for bond.
- 14 16. The detention authority applicable to Petitioner remains disputed, including whether his detention
15 is governed by 8 U.S.C. § 1225(b) or 8 U.S.C. § 1226(a).
- 16 17. On June 27, 2026, while Petitioner was walking on a public street toward his vehicle, ICE officers
17 approached him and questioned him regarding his identity.
- 18 18. Petitioner fully cooperated with the officers and advised them that he had a pending asylum
19 application, possessed valid employment authorization, and had faithfully complied with every
20 condition imposed by DHS since his release.
- 21 19. ICE officers nevertheless transported Petitioner to an ICE facility and placed him into immigration
22 custody.
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1 20. Prior to detaining Petitioner, Respondents provided no advance notice that his release was under
2 review, no individualized custody determination, no opportunity to be heard, and no pre-
3 deprivation hearing before a neutral decisionmaker.

4 21. Respondents did not identify any violation of Petitioner's release conditions, any material change
5 in circumstances, or any individualized basis demonstrating that immediate detention was
6 necessary before revoking Petitioner's liberty.

7 22. Petitioner repeatedly requested an explanation for his detention but was not provided any
8 meaningful explanation before being taken into immigration custody.

9 23. At the time of his detention, Petitioner remained gainfully employed, possessed valid employment
10 authorization, maintained significant family and community ties, had a pending asylum
11 application, and had fully complied with every condition imposed by DHS for more than three
12 years.
13

14 24. Respondents revoked Petitioner's previously granted liberty without notice, without a hearing,
15 without any meaningful opportunity to be heard, and without any individualized pre-deprivation
16 process.
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18 **III. LEGAL STANDARD**

19 The standards governing a TRO and a preliminary injunction are "substantially identical."
20 *Stuhlbarg Int'l Sales Co. v. John D. Bush & Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).
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22 A TRO may issue where the movant demonstrates: A likelihood of success on the merits, a
23 likelihood of irreparable harm absent relief, that the balance of equities tips in his favor, and that an
24 injunction is in the public interest. *Winter v. NRDC*, 555 U.S. 7, 20 (2008).
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1 Alternatively, a TRO may issue where serious questions go to the merits and the balance of
2 hardships tips sharply in the movant's favor. *Friends of the Wild Swan v. Weber*, 767 F.3d 936, 942 (9th
3 Cir. 2014).

4 **IV. ARGUMENT**

5 **A. Petitioner Is Likely to Succeed on the Merits**

6 **1. Respondents Violated Due Process By Revoking Petitioner's Liberty Without Pre-Deprivation** 7 **Process**

9 Shortly after Petitioner entered the United States on or about November 14, 2022, DHS exercised
10 its discretionary custody authority and released him on an Order of Release on Recognizance subject to
11 Alternatives to Detention ("ATD") supervision and periodic ICE reporting requirements. DHS thereafter
12 permitted Petitioner to remain at liberty while his removal proceedings remained pending.
13

14 For more than three years, Petitioner fully complied with every condition imposed by DHS. He
15 appeared for every required ICE appointment, complied with every ATD requirement, maintained valid
16 employment authorization based upon his pending asylum application, remained gainfully employed, and
17 never violated any condition of his release. Throughout that period, DHS knew where Petitioner resided,
18 where he worked, and how to contact him. DHS never alleged that Petitioner failed to report, absconded,
19 or otherwise violated any condition of supervision.
20

21 On June 27, 2026, while Petitioner was walking on a public street toward his vehicle, ICE officers
22 approached him and questioned him regarding his identity. Petitioner fully cooperated and advised the
23 officers that he had a pending asylum application, possessed valid employment authorization, and had
24 faithfully complied with every condition imposed by DHS since his release. ICE officers nevertheless
25 transported Petitioner to an ICE facility and placed him into immigration custody.
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1 Before revoking Petitioner's previously granted liberty, Respondents provided no advance notice
2 that his release was under review, no individualized custody determination, no opportunity to consult with
3 counsel, no opportunity to present information on his own behalf, and no pre-deprivation hearing before
4 a neutral decisionmaker. Nor did Respondents identify any violation of Petitioner's release conditions, any
5 material change in circumstances, or any individualized basis demonstrating that immediate detention was
6 necessary.
7

8 This case does not concern Petitioner's initial detention following his entry into the United States.
9 Rather, it concerns Respondents' revocation of previously granted liberty after more than three years of
10 complete compliance with DHS supervision.
11

12 The Supreme Court has long recognized that once the Government grants conditional liberty, that
13 liberty constitutes a protected interest that cannot be revoked without constitutionally adequate
14 procedures. *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972). Ordinarily, due process requires notice and a
15 meaningful opportunity to be heard before the Government deprives an individual of a protected liberty
16 interest. *Mathews v. Eldridge*, 424 U.S. 319, 333-35 (1976); *Fuentes v. Shevin*, 407 U.S. 67, 80-82 (1972).
17 The constitutional injury was complete the moment Respondents revoked Petitioner's previously granted
18 liberty without providing constitutionally adequate pre-deprivation process. A later custody review or
19 bond hearing cannot retroactively cure that completed constitutional violation.
20

21 No exigent circumstances justified dispensing with those constitutional safeguards. Respondents
22 had permitted Petitioner to remain at liberty for more than three years while fully complying with every
23 condition of supervision. They identified no violation of Petitioner's release conditions, no danger to the
24 community, no flight risk, and no material change in circumstances requiring immediate detention without
25 prior process.
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1 Because Respondents revoked Petitioner's previously granted liberty without notice, without any
2 meaningful opportunity to be heard, and without any individualized pre-deprivation process, Petitioner is
3 likely to succeed on his procedural due process claim.

4 **2. Petitioner Is Likely to Succeed on His Statutory Claim**

5 Petitioner entered the United States without inspection on or about November 14, 2022. Shortly
6 thereafter, DHS briefly detained him pursuant to a Form I-200 but exercised its discretionary authority to
7 release him on an Order of Release on Recognizance subject to ATD supervision and periodic ICE
8 reporting requirements. Petitioner has remained continuously in removal proceedings under 8 U.S.C. §
9 1229a and has a pending application for asylum before the Immigration Court.
10

11 Respondents now contend that Petitioner's detention is governed by 8 U.S.C. § 1225(b), while
12 Petitioner maintains that his detention is governed by 8 U.S.C. § 1226(a). Regardless of which statutory
13 provision ultimately applies, nothing in the Immigration and Nationality Act authorizes Respondents to
14 revoke previously granted liberty without affording the procedural protections required by the Fifth
15 Amendment.
16

17 Section 1226(a) authorizes discretionary detention and release pending removal proceedings. By
18 contrast, § 1225(b) governs detention during the admission process. Nothing in the INA authorizes DHS
19 to release a noncitizen into the community, permit him to remain at liberty for years while complying with
20 every condition of supervision, and then summarily revoke that liberty solely because of a subsequent
21 change in the agency's interpretation of the detention statutes.
22

23 For more than three years, DHS itself determined that continued detention was unnecessary.
24 Petitioner relied upon that determination by maintaining lawful employment, complying with every
25 reporting requirement, establishing substantial family and community ties, and actively pursuing his
26 asylum application.
27
28

1 Respondents now rely upon DHS's July 8, 2025 Interim Guidance together with *Matter of Q. Li*,
2 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). Neither
3 decision, however, authorizes DHS to revoke previously granted liberty after years of successful
4 supervision without providing individualized process. Those decisions address Immigration Judge bond
5 jurisdiction and the Government's interpretation of the detention statutes. They do not authorize the
6 summary revocation of liberty challenged here.
7

8 Moreover, numerous judges within the Eastern District of California have rejected DHS's
9 interpretation that individuals in Petitioner's position are categorically subject to detention under §
10 1225(b), concluding instead that such individuals remain detained, if at all, under § 1226(a). Accordingly,
11 Petitioner has demonstrated a strong likelihood of success on his statutory claim.
12

13 **3. Revoking Previously Granted Liberty Without Individualized Justification Violates**
14 **Substantive Due Process**

15 Even if Respondents could establish statutory authority supporting Petitioner's detention, the Fifth
16 Amendment independently prohibits arbitrary governmental action that interferes with protected liberty
17 interests.
18

19 DHS affirmatively determined that continued detention was unnecessary when it exercised its
20 discretion to release Petitioner on an Order of Release on Recognizance and permitted him to remain at
21 liberty for more than three years. During that period, Petitioner fully complied with every condition
22 imposed by DHS, maintained valid employment authorization, remained gainfully employed, established
23 substantial family and community ties, and actively pursued his pending asylum application.
24

25 Respondents never alleged that Petitioner violated any condition of release, failed to comply with
26 DHS supervision, posed a danger to the community, or presented a flight risk.
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1 Instead, on information and belief, Respondents revoked Petitioner's liberty pursuant to DHS's
2 July 8, 2025 Interim Guidance and their interpretation of *Matter of Q. Li* and *Matter of Yajure-Hurtado*,
3 rather than because of any newly discovered misconduct, material change in circumstances, or
4 individualized determination that detention had become necessary.

5 Revoking liberty previously granted through a formal discretionary custody determination after
6 more than three years of complete compliance—and doing so without any individualized justification
7 demonstrating that immediate detention was necessary—is arbitrary governmental action that bears no
8 reasonable relationship to a legitimate governmental objective. Such arbitrary action violates the
9 substantive component of the Fifth Amendment's Due Process Clause.
10

11 Petitioner has therefore demonstrated a strong likelihood of success on his substantive due process
12 claim.
13

14 **B. Petitioner Is Suffering Irreparable Harm**

15 Loss of physical liberty constitutes irreparable harm as a matter of law. *Melendres v. Arpaio*, 695
16 F.3d 990, 1002 (9th Cir. 2012).
17

18 Petitioner is suffering ongoing and irreparable harm due to Respondents' unlawful detention. He
19 was released and remained at liberty while fully complying with every condition of supervision. He
20 attended all ICE appointments, complied with ATD monitoring, maintained lawful employment pursuant
21 to valid work authorization based upon his pending asylum application, maintained a known address.

22 On June 27, 2026, ICE officers seized and detained Petitioner without advance notice, without
23 identifying any violation of his release conditions, and without providing any pre-deprivation process. His
24 detention is based solely on DHS's July 8, 2025 policy reinterpretation and reliance on *Matter of Q. Li*
25 and *Matter of Yajure-Hurtado*.
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1 Each additional day of detention compounds the constitutional injury and cannot be remedied by
2 monetary damages or after-the-fact relief. Petitioner also faces the loss of employment and the disruption
3 of his ongoing asylum proceedings as a result of his continued detention.

4 The harm is particularly acute because Petitioner is denied any meaningful mechanism to seek
5 release, notwithstanding DHS's prior determination that detention was unnecessary.
6

7 Absent immediate injunctive relief, Petitioner will continue to suffer an ongoing violation of his
8 constitutional rights. He also faces a risk of transfers outside this District, which would frustrate this
9 Court's jurisdiction and impair meaningful judicial review.

10 A Temporary Restraining Order is therefore necessary to halt this irreparable harm.

11 **C. The Balance of Equities and Public Interest Favor Relief**
12

13 The balance of equities weighs sharply in Petitioner's favor. DHS previously exercised its
14 discretion to release Petitioner and permitted him to remain at liberty under supervision for more than
15 three years, thereby demonstrating that continued detention was unnecessary during that period.
16 Respondents cannot now claim harm from either releasing him under those same conditions or providing
17 a constitutionally adequate custody determination under § 1226(a). The requested relief simply restores
18 the status quo ante by returning Petitioner to the same conditions of supervision under which DHS itself
19 determined he could safely remain in the community for more than three years.
20

21 By contrast, Petitioner suffers the ongoing loss of physical liberty—the most fundamental of
22 liberty interests—each day he remains detained.
23

24 The public interest is served by ensuring that federal agencies comply with the Constitution and
25 the Immigration and Nationality Act. An injunction here would not impede lawful immigration
26 enforcement; it would simply require Respondents to act within legal limits.
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1 Because the requested relief halts unlawful government conduct, the Court may waive any bond
2 requirement under Rule 65(c).

3 **D. Immediate Release—Not Merely a Bond Hearing—Is the Proper Remedy**

4 Where the Government detains an individual without statutory authority or in violation of the
5 Constitution, habeas courts possess broad remedial power to order release. *Boumediene v. Bush*, 553 U.S.
6 723, 779 (2008).
7

8 Here, DHS released Petitioner on an Order of Release on Recognizance, permitted him to remain
9 at liberty for more than three years, and then re-detained him without notice, without any violation, and
10 without any individualized justification.

11 A belated bond hearing does not cure this constitutional violation. The injury is not merely the
12 denial of a hearing—it is the arbitrary deprivation of liberty at the moment of re-detention.
13

14 Where detention rests on an erroneous statutory classification, continued confinement cannot be
15 justified pending future administrative proceedings.

16 Allowing the Government to cure unlawful detention only after judicial intervention would
17 incentivize noncompliance and undermine the protections guaranteed by the Due Process Clause.
18

19 Under these circumstances, release is the only remedy that restores Petitioner to the position he
20 occupied prior to the constitutional violation.

21 Accordingly, this Court should order Petitioner's immediate release, or, at minimum, prohibit
22 further detention absent constitutionally compliant pre-deprivation process consistent with § 1226(a).
23

24 **V. REQUESTED RELIEF**

25 Petitioner respectfully requests that the Court:

- 26 1. Issue a Temporary Restraining Order Prohibiting Respondents from transferring Petitioner outside
27 the Eastern District of California during the pendency of this action;
28

2. Order Petitioner's immediate release under the same conditions previously imposed by DHS;
3. In the alternative, prohibit Respondents from re-detaining Petitioner absent constitutionally adequate pre-deprivation process consistent with the Fifth Amendment.; and
4. Issue an Order to Show Cause why a preliminary injunction should not be granted; and
5. Grant such other and further relief as the Court deems just and proper.

Respectfully,

/s/ Gurpreet Kaur
Gurpreet Kaur, Esq.

Dated this 1st day of July, 2026.