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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

Karan KARAN,

Petitioner

Sergio Albarran, Field Office Director of
Enforcement and Removal Operations, **ERO**
San Francisco Field Office, Immigration and
Customs Enforcement; **Markwayne Mullin**,
Secretary, U.S. Department of Homeland
Security; **Todd M. Lyons**, Acting Director of
the United States Immigration and Customs
Enforcement; **Todd Blanche**, U.S. Attorney
General; Executive Office for Immigration
Review; **Warden of the Mesa Verde
Detention Center**

Respondents

Case No.:

PETITION FOR WRIT OF HABEAS
CORPUS EXPEDITED HEARING
REQUESTED

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

INTRODUCTION

1. Petitioner, Karan KARAN ("KARAN"), is national of India who is seeking protection in the United States after being harmed and threatened by the government ruling party due to his active support for

2. Petitioner illegally entered the United States without inspection on June 17, 2024, at or near San Diego boundary border by foot, and was later encountered by Respondents. Petitioner was subsequently released by Respondents into the United States with a Notice to Appear ("NTA") and issued an alien registration (see **Exhibit A**, Copy of NTA dated June 18, 2024). Petitioner was issued ICE Form I-220A, Order of Release on Recognizance. (see **Exhibit B**, Form I-213, page 3 of 4 referencing OR release).

3. Petitioner faithfully completed his Immigration checks with his local Immigration and Customs Enforcement ("ICE") for over two years. On March 10, 2026, KARAN's asylum application (Form I-589) was denied by an Immigration Judge in Van Nuys, CA. Though late, KARAN's attorney Hari Heerekar filed his appeal with the Board of Immigration Appeals on June 16, 2026. (See **Exhibit C**, Copy of appeal notice)

4. Days prior, KARAN was detained by Respondents on or about June 11, 2026. (see **Exhibit D**, copy of form I-830)

5. Prior to his arrest, KARAN has complied with every request, demand and requirement imposed by Respondents. Petitioner was arrested and detained by Respondents without a warrant as required under 8 U.S.C. § 1226(a) ("§ 1226(a)").

6. On July 8, 2025, DHS issued an internal Interim Guidance ("Policy") that took the baseless position that—contrary to statutory principles and governing case law—noncitizens

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1 like Petitioner who entered the United States without permission or parole are subject to
2 mandatory detention under 8 U.S.C. § 1225(b) instead of discretionary detention under section
3 1226(a). On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a decision in
4 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) that sided with DHS’ position.
5

6 7. Petitioner has not requested a Bond Hearing before the Immigration Judge since
7 his detention on June 11, 2026, however, since Immigration Judges have been directed by
8 leadership with EOIR, to routinely rejected jurisdiction under *Yajure Hurtado* and *Q. Li*, and
9 request for a bond hearing will be futile and ultimately rejected by the IJ, thus prolonging his
10 unnecessary detention
11

12 8. Immigration Judges, were at the time (and still are) relying on, the *Matter of Q.*
13 *Li*, 29 I. & N. Dec. 66 (BIA 2025), to hold that petitioners are ineligible for bond, despite
14 evidence disputing the underlying factual assumptions regarding their apprehension and
15 processing.
16

17 9. Petitioner has also been subjected to the aforementioned Policy instructing all ICE
18 employees to consider anyone arrested within the United States and charged with being
19 inadmissible under § 1182(a)(6)(A)(i) to be an “applicant for admission” under 8 U.S.C. §
20 1225(b)(2)(A) and therefore subject to mandatory detention. The Policy itself states that it was
21 issued “in coordination with the Department of Justice (DOJ).” Given these facts, any request to
22 the Immigration Judge for a bond hearing, as well as any subsequent appeals to the Board to
23 resolve this matter, would be futile and lead to further delays.
24

25 10. And because the government purports to hold Petitioner under § 1225(b)(1), it will
26 likely not provided him an individualized bond hearing to challenge his detention under 8 U.S.C.
27
28

1 § 1226(a), INA § 236(a), contravening his rights under the Immigration and Nationality Act and
2 the Fifth Amendment's Due Process Clause.

3 11. Hence, as a result of this jurisdictional denial, Petitioner now faces prolonged and
4 potentially indefinite detention without any meaningful opportunity for an individualized custody
5 review. He is actively pursuing asylum, withholding removal, and protection under the
6 Convention Against Torture and has filed his I-589 application with the Immigration Court that
7 is pending. Despite his ongoing litigation and eligibility for relief, DHS continues to detain him
8 without providing a mechanism for release or a hearing before an Immigration Judge empowered
9 to evaluate danger, flight risk, or alternatives to detention.
10

11 12. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant
12 petition for a writ of habeas corpus. Petitioner asks this Court to find that Respondents' attempt
13 to detain Petitioner are arbitrary and conspicuous and in violation of the law, and to immediately
14 issue an order for Petitioner's release, or, grant him bail under conditions established by this
15 Court, or, at minimum promptly provide him with a constitutionally adequate bond hearing
16 under § 1226(a) within three days before a neutral decision maker with authority to grant release.
17

18 13. The language of § 1226(a)'s warrant requirement is unequivocal and does not
19 afford the Government forgiveness simply by providing a bond hearing after the fact. (see
20 *Yociris P. v. Bondi*, No. 26-CV-1080 (ECT/EMB), 2026 WL 327937, at *3 (D. Minn. Feb. 8,
21 2026) ("Where the record shows Respondents have not identified a valid statutory basis for
22 detention in the first place, the remedy is not to supply one through further proceedings."
23 (quoting Order on Petition for Writ of Habeas Corpus at 6, *Vedat C. v. Bondi*, No. 25-cv-4642
24 (JWB/DTS) (D. Minn. Dec. 19, 2025), ECF No. 9 (citing *Munaf v. Geren*, 553 U.S. 674, 693
25 (2008))).) Instead, such a violation calls for release. (See, e.g., *A.E.R.T. v. Wofford*, No. 1:25-
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CV-01824-KES-SKO, 2025 WL 3645297, at *2 (E.D. Cal. Dec. 16, 2025) (finding immediate release the appropriate remedy where petitioner was arrested without a warrant in violation of § 1226(a)); (see *J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO, 2025 WL 3013328, at *8 (E.D. Cal. Oct. 27, 2025) (same)).

FACTUAL BACKGROUND

14. Petitioner, KARAN is national of India seeking asylum from the credible harm and threats he suffered in India.

15. Petitioner last entered the United States without inspection or admission by crossing into the United States on or about June 17, 2024. After entry, he was encountered by U.S. Border Patrol. After being processed, Petitioner was released under an “Order of Release on Recognizance” (the “Order”) by DHS for the likely purpose of eventually processing him into removal proceedings. Since his release, the Petitioner fulfilled the conditions of his release, filed an application for asylum and withholding of removal and protection under the Convention Against Torture before the Immigration Court.

16. Petitioner was placed in Section 240 removal proceedings (See Exhibit A), thereby rendering him subject to discretionary detention under Section 236(c) not mandatory detention under Section 235(b). Section 236 does not mandate detention and expressly permits release on bond or conditional parole. It is further pertinent to note that the Petitioner was released on his own recognizance under the aforementioned Order, which expressly states that he was being released on his own recognizance under Section 236 of the Immigration and Nationality Act.

17. Prior to detaining the Petitioner, Respondents did not provide any written notice explaining the basis for the revocation of his earlier release, or a warrant of arrest required under

1 § 1226(a). Likewise, Respondents did not assess whether the Petitioner presented a flight risk or
2 danger to the community prior to his arrest. Nor did Respondents provide a hearing before a
3 neutral decisionmaker, where ICE was required to justify the basis for detention or to explain
4 why the Petitioner is now a flight risk or danger to the community. As this Court has held in
5 multiple cases, due process demands a hearing prior to the government's decision to terminate a
6 person's liberty.
7

8 18. Petitioner was taken into the custody of U.S. Immigration and Customs
9 Enforcement and is currently detained at the Mesa Verde Detention Center in Bakersfield,
10 California.
11

12 19. Petitioner has no criminal history, no disciplinary infractions during his
13 detention, and no evidence suggesting he poses a danger to the community. He has demonstrated
14 consistent cooperation with immigration authorities and is pursuing his appeal for asylum,
15 withholding of removal, and Convention Against Torture claims in good faith.
16

17 20. Petitioner now faces the prospects of prolonged and potentially indefinite
18 detention without any mechanism for individualized custody review. He remains confined under
19 restrictive, penal-like conditions, despite having no criminal background, no history of
20 absconding, and a viable application for humanitarian protection.
21

22 21. Petitioner's ongoing detention without a warrant of arrests, or prospects of
23 receiving a fair and neutral bond hearing by an Immigration Judge, violates the Immigration and
24 Nationality Act, the Due Process Clause of the Fifth Amendment, and fundamental constitutional
25 protections against arbitrary and indefinite detention. Petitioner therefore seeks immediate
26 judicial intervention to secure his release or, in the alternative, a constitutionally adequate bond
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1 hearing before an Immigration Judge with authority to consider all relevant factors and grant him
2 release.

3
4 **JURISDICTION AND VENUE**

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

7 23. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
8 corpus), 28U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States
9 Constitution (Suspension Clause).
10

11 24. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et.*
12 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28U.S.C. §
13 1651.
14

15 25. Federal district courts have jurisdiction to hear habeas claims brought by
16 noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510,
17 516–17 (2003) (recognizing habeas jurisdiction over immigration detention challenges);
18 *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same); *Soberanes v. Comfort*, 388 F.3d1305, 1310
19 (10th Cir. 2004) (“Challenges to immigration detention are properly brought directly through
20 habeas.”).
21
22

23 26. No petition for a writ of habeas corpus has previously been filed in any court
24 regarding Petitioner.

25 27. Venue is proper because Petitioner is detained at Mesa Verde Detention Center in
26 Bakersfield, California, which is within the jurisdiction of this Eastern District. Venue is also
27 proper in this District because Respondents are officers, employees, or agencies of the United
28
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1 States. *See* 28 U.S.C. §§ 1391(b) and (e)(1) *see also United States v. Scott*, 803 F.2d 1095, 1096
2 (10th Cir. 1986) (“A § 2241 petition for a writ of habeas corpus must be addressed to the federal
3 district court in the district where the prisoner is confined.”).

4
5 **PARTIES**

6 28. Petitioner Karan KARAN is a citizen and national of India who is currently detained
7 at the Mesa Verde Detention Center in Bakersfield, California. He is held in the custody of the
8 United States Department of Homeland Security (“DHS”) and brings this habeas petition to
9 challenge the legality of her ongoing civil immigration detention.
10

11 29. Respondent **Markwayne Mullin** is sued in his official capacity as the Secretary
12 of the U.S. Department of Homeland Security (“DHS”). In this capacity, Respondent is
13 responsible for the implementation and enforcement of the Immigration and Nationality Act, and
14 oversees U.S. Immigration and Customs Enforcement, the component agency responsible for
15 Petitioner’s detention and custody. Respondent is a legal custodian of Petitioner.
16

17 30. Respondent **Todd Blanche** is sued in his official capacity as the Attorney General
18 of the United States and the senior official of the U.S. Department of Justice (DOJ). In that
19 capacity, he has the authority to adjudicate removal cases and to oversee the Executive Office for
20 Immigration Review (EOIR), which administers the immigration courts and the BIA.
21 Respondent is a legal custodian of Petitioner.
22

23 31. Respondent **Todd Lyons** is sued in his official capacity as the Acting Director of
24 the U.S. Immigration and Customs Enforcement. Respondent is a legal custodian of Petitioner
25 and has authority to release him.
26
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32. Respondent **Sergio Albarran**, Field Office Director of the USCIS Bakersfield, issued in his official capacity. These official exercises supervisory responsibility over immigration functions relevant to Petitioner's detention and the processing of matters that affect her custody and immigration status.

33. Respondent, **Warden of the Mesa Verde Detention Center**, on information and belief, is Petitioner's immediate custodian. The Warden identity has not now been public made known, and Petitioner reserves the right to amend the Writ if identity is later disclosed or becomes known. Nonetheless, the Mesa Verde Detention Center in Bakersfield, California maintains direct physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement ("ICE") to detain noncitizens and is a legal custodian of Petitioner. Respondent is a legal custodian of Petitioner

EXHAUSTION OF ADMINISTRATIVE REMEDIES

34. Petitioner has not sought administrative remedy, but currently Immigration Judges are instructed the outset that they lacks jurisdiction.¹ Petitioner's continued detention in ICE custody cannot be challenged by way of bond proceedings before the Immigration Judge as Immigration Judges continue to rely on *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025) as well as *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Futility is an exception to the prudential exhaustion requirement. Therefore, a writ of habeas corpus is the sole avenue to vindicate his constitutional, statutory, and regulatory rights and restore his liberty.

¹ See <https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista>; (On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: “*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*”)

LEGAL FRAMEWORK

35. 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).

36. 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).

37. 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).

38. Custody determination for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under §1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

39. The INA prescribes three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 § 1226(a); 8 U.S.C. §1229a. Individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

40. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under 8 U.S.C. § 1225(b)(2).

1 41. Finally, the Act also provides for detention of noncitizens who have been
2 previously ordered removed, including individuals in withholding-only proceedings, *see* 8
3 U.S.C. § 1231(a)–(b).
4

5 42. The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part
6 of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub.
7 L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585.
8 Section 1226(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119–1, 139
9 Stat. 3 (2025).
10

11 43. Once a determination to release an individual from custody is made, the release
12 order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8
13 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take
14 that individual back into custody by revoking the individual’s release when the facts and
15 circumstances warrant it.
16

17 44. Revocation and return to custody is authorized only based on the individualized
18 facts and circumstances. 8 C. F. R. § 1236.1(c)(9). By regulation, revocation decisions are
19 limited in nature and may be only made by certain authorized officials. *Id.*

20 45. Following enactment of the IIRIRA, the Executive Office of Immigration Review
21 drafted new regulations explaining that, in general, people who entered the country without
22 inspection were not considered detained under section 1225 and that they were instead detained
23 under section 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal
24 of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323
25 (Mar. 6, 1997). In the decades that followed, most noncitizens who entered without inspection—
26 unless they were subject to some other detention authority—received bond hearings. This
27
28

1 practice was also consistent with the practice prior the enactment of the IIRIRA, in which
2 noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or
3 other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at
4 229 (1996) (noting that section 1226(a) simply “restates” the detention authority previously
5 found at section 1252(a)).
6

7 46. On July 8, 2025, DHS issued a memo to all employees of Immigration and
8 Customs Enforcement (“ICE”) stating that “[t]his message serves as notice that DHS, in
9 coordination with the Department of Justice (DOJ), has revisited its legal position on detention
10 and release authorities. DHS has determined that section 235 of the Immigration and Nationality
11 Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable
12 immigration detention authority for all applicants for admission. The following interim guidance
13 is intended to ensure immediate and consistent application of the Department’s legal
14 interpretation while additional operational guidance is developed.”
15
16

17 47. As a result, DHS now considers *all* noncitizens who have entered the United
18 States without inspection and are subject to the grounds of inadmissibility, including longtime
19 U.S. residents to be subject to mandatory detention under section § 1225(b) and ineligible for
20 release on bond. Conversely, according to DHS “[t]he only aliens eligible for a custody
21 determination and release on recognizance, bond, or other conditions under INA § 236(a) [8
22 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and
23 chargeable with deportability under INA § 237, with the exception of those subject to mandatory
24 detention under INA § 236(c) [8 U.S.C. § 1226(c)].” *Id.*
25

26 48. On September 5, 2025, the BIA issued a precedential decision in *Matter of Yajure*
27 *Hurtado*, 29 I&N Dec. 216 (BIA 2025) holding that, based on the plain language of 8 U.S.C. §
28

1 1225(b)(2)(A), IJs lack authority to hear bond requests or to grant bond to noncitizens who are
2 present in the United States without admission.

3
4
5 **REQUIRMENTS OF 28 U.S.C. §§2241,2243**

6 49. The court must grant the petition for writ of habeas corpus or issue an order to
7 show cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief.
8 28 U.S.C. §2243. If an OSC is issued, the Court must require Respondents to file a return
9 “within three days unless for good cause additional time, not exceeding twenty days, is allowed.”
10 *Id.*

11
12 50. Courts have long recognized the significance of the habeas statute in protecting
13 individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most
14 important writ known to the constitutional law of England, affording as it does a swift and
15 imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391,
16 400 (1963).

17
18 51. Petitioner is “in custody” for the purpose of § 2241 because Petitioner is arrested
19 and detained by Respondents.

20 **CLAIMS FOR RELIEF**

21 **COUNT ONE**

22 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)**

23 **Abuse of Discretion**

24 **Violation of 8 U.S.C. §1226(b), 8 C.F.R. § 1236.1(c)(9)**

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

26 53. Under the APA, a court shall “hold unlawful and set aside agency action” that is
27 an abuse of discretion. 5 U.S.C. § 706 (2)(A).

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1 54. An action is an abuse of discretion if the agency “entirely failed to consider an
2 important aspect of the problem, offered 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 difference in
4 view or the product of agency expertise.” **Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551
5 U.S. 644, 658 (2007)(quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto.*
6 *Ins. Co.*, 463 U.S. 29, 43 (1983).

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

12 56. By categorically revoking Petitioner’s release, Respondents have violated the
13 APA.

14 57. By detaining Petitioner, Respondents have further abused their discretion because
15 there have been no changes to his facts or circumstances (or medical history) since the agency
16 made its initial custody determination that supports the revocation of his release from custody.

18 58. Respondents have already considered Petitioner’s facts and circumstances and
19 determined that he was not a flight risk or danger to the community up his release on own
20 recognizance. There have been no changes to the facts that justify this revocation of his release
21 on his own recognizance.

23 COUNT TWO

24 Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the 25 Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations 26 Not in Accordance with Law and in Excess of Statutory Authority Unlawful 27 Detention

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

1 60. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in
2 accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction,
3 authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. §
4 706(2)(A)-(D).

5
6 61. 8 U.S.C § 1226(b) authorizes that “[t]he Attorney General at any time may revoke
7 a bond or parole authorized under [8 U.S.C § 1226(a)” and rearrest a noncitizen under the
8 initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that
9 such revocations of release from custody may only be carried out in the “discretion of the district
10 director, acting district director, deputy district director, assistant district director for
11 investigations, assistant direct director for detention and deportation, or officer in charge (except
12 foreign).”

13
14 62. It is well-established administrative principle that “agency action taken without a
15 lawful authority is at least voidable, if not void *ab initio*.” (*L.M.-M v. Cuccinelli*, 443 F. Supp. 3d
16 1, 35 (D.D.C. 2020), citing *SW General, Inc v. NLRB*, 796 F. 3d 67, 79 (D.C. Cir. 2015); see also
17 *Hooks v. Kitsap Tenant Support Serv., Inc.*, 816 F. 3d 550, 555 (9th Circ. 2016) (invalidating
18 agency action because it was taken by unauthorized official).

19
20 63. DHS’s reliance on *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), to justify
21 continued detention is arbitrary and contrary to law. *Q. Li* addresses the jurisdiction of
22 Immigration Judges to conduct bond hearings for individuals allegedly apprehended shortly after
23 entry. It does not compel DHS to detain such individuals indefinitely, nor does it eliminate
24 DHS’s longstanding discretionary authority to release noncitizens on parole, recognizance,
25 supervision, or bond.
26
27
28

1 64. By treating *Q. Li* as an absolute bar to any form of custody review or
2 discretionary release, DHS has effectively adopted a blanket detention policy that substitutes
3 categorical rules for the individualized determinations required under the Immigration and
4 Nationality Act.

5
6 65. DHS has not conducted any meaningful custody assessment of Petitioner, nor has
7 it provided a rational explanation for refusing to exercise discretion in his case. Its failure to
8 consider Petitioner's lack of criminal history, his cooperation with authorities, his pursuit of
9 asylum, or his eligibility for alternatives to detention constitutes arbitrary and capricious
10 decision-making.

11
12 66. DHS's actions are inconsistent with the statutory purpose of civil immigration
13 detention, which is limited to ensuring appearance at future proceedings and protecting public
14 safety. Petitioner's continued confinement does not advance either purpose.

15 67. DHS has therefore acted in a manner that is arbitrary, capricious, an abuse of
16 discretion, and not in accordance with law. Its continued detention of Petitioner must be set aside
17 under 5 U.S.C. § 706(2)(A).

18
19 68. On information and belief, Respondents have revoked or are revoking Petitioner's
20 prior custody determination as a result of a categorical policy prepared by and implanted by
21 unidentified government officials in Washington, not through the individual exercise of
22 discretion required by law or by the individuals enumerated by regulation to do so.

23
24 69. Because Petitioner's revocation of release from custody has been made or will be
25 categorically directed by government officials not authorized by law to make this determination,
26 Respondent's detention of Petitioner is not in accordance with law and in excess of statutory
27 authority.

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1 70. Just as Important, KARAN is not an "applicant for admission" as identified in *Q.*
2 *Li* since the factual circumstances surrounding his encounter with Respondents greatly differs
3 then the Respondent in *Q. Li*.

4 71. KARAN's case fact pattern resembles identically to a Federal District Court
5 decision in the State of Massachusetts that was recently decided. (See *Martinez v. Hyde*, Civil
6 Action No. 25-11613-BEM). In that case, a federal district court analyzed the actual method of
7 detention and actions taken by Immigration officials near the border to determine the manner of
8 release. In both cases, each asylum seeker was issued an Order of Release on Recognizance (e.g.
9 KARAN issued form I-220A "Order of Release on Recognizance") after an initial entry without
10 inspection. As the Court stated, Subject to exceptions not relevant here, section 1225(b)(2)(A)
11 states: [I]n the case of an alien who is an applicant for admission, if the examining immigration
12 officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to
13 be admitted, the alien shall be detained for a proceeding under section 1229a of this title. Thus,
14 for section 1225(b)(2)(A) to apply, several conditions must be met-in particular, an "examining
15 immigration officer" must determine that the individual is: (1) an "applicant for admission"; (2)
16 "seeking admission"; and (3) "not clearly and beyond a doubt entitled to be admitted."

17 72. KARAN's order of Release on Recognizance contradicts the Respondent's likely
18 assertion that his June 17, 2024 Border Patrol encounter constituted an examination under
19 section 1225. While immigration officers routinely examine (or "inspect") non-citizen applicants,
20 see 8 U.S.C. § 1225(a)(3), they also enjoy broad authority to interrogate and, in some
21 circumstances, temporarily detain non-citizens within the United States without a warrant, *id.* §
22 1357(a)(1)-(2). In other words, not every encounter with an immigration officer necessarily
23 constitutes an examination under section 1225.

1 73. Since KARAN was issued Form I-220, nowhere in the record does it show that he
2 was examined or detained under section 1225 but instead explicitly premises his release on
3 section 1226 by stating: ("In accordance with section 236 of the Immigration and Nationality
4 Act .. you are being released on your own recognizance ... "). (See **Exhibit B**). Just as the
5 District Court in Massachusetts logically concluded, Section 1226 governs a separate (non-
6 mandatory) detention scheme applicable when an individual is "already in the country."
7 (Jennings v. Rodriguez, 583 U.S. 281, 289 (2018)).
8

9 74. The Federal District Court in *Hyde v. Martinez* concluded that:
10

- 11 1. the procedural history cannot make sense of Petitioner's release on
12 recognizance because individuals detained following examination under
13 section 1225 can only be paroled into the United States "for urgent
14 humanitarian reasons or significant public benefit." Jennings, 583 U.S. at
15 300 (quoting 8 U.S.C. § 1182(d)(5)(A) ("section 1182(d)(5)(A)")).
- 16 2. Release on recognizance is not "humanitarian" or "public benefit" "parole
17 into the United States" under section 1182(d)(5)(A) but rather a form of
18 "conditional parole" from detention upon a charge of removability,
19 authorized under section 1226. (*Ortega-Cervantes v. Gonzales*, 501 F.3d
20 1111, 1115-16 (9th Cir. 2007) (holding that a non-citizen released on an
21 "Order of Release on Recognizance" necessarily must have been detained
22 and released under section 1226, including because he was not an
23 "arriving alien" under the regulations governing section 1225
24 examinations).
25
26
27
28

75. KARAN was not "parole[d] into the United States" "for urgent humanitarian
reasons or significant public benefit" under section 1182(d)(5)(A) but rather, as his Order
explicitly states, he was released upon his own recognizance under section 236. (See also *Matter*
of *Cabrera-Fernandez*, 28 I. & N. Dec. 747, 749 (B.I.A. 2023) (holding that an immigration
judge erred in treating release on recognizance of non-citizens "detained soon after their
unlawful entry" as constructive humanitarian parole.). Thus Petitioner was not inspected and
paroled in like *Q. Li* an KARAN's case is distinguishable.

PETITION FOR WRIT OF HABEAS CORPUS EXPEDITED HEARING REQUESTED - 18

COUNT THREE

**Unlawful Detention in Violation of the Immigration and Nationality Act (INA) and
Implementing Regulations**

76. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

77. The Immigration and Nationality Act authorizes immigration detention only when it serves a legitimate statutory purpose—namely, to ensure an individual's appearance at future proceedings or to protect public safety. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Clark v. Martinez*, 543 U.S. 371, 381 (2005). Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority.

78. Petitioner is a citizen and national of India who entered the United States seeking protection and was subsequently placed in removal proceedings under section 240 of the Immigration and Nationality Act.

79. Petitioner has no criminal history, no record of violence, and has never exhibited conduct suggesting danger to the community or risk of flight. Nothing in his immigration file indicates that he poses a threat to public safety or that he would fail to appear for his hearings if released.

80. The jurisdictional denial by Immigration Judge currently in effect leaves Petitioner with no administrative mechanism for custody review, effectively subjecting him to prolonged and potentially indefinite detention without any statutory pathway to request release.

81. The INA does not authorize indefinite detention of a noncitizen who has no final order of removal (since BIA appeal has been filed), who poses no danger or flight risk, and who has not been afforded an opportunity to present evidence regarding custody.

1 82. Petitioner's continued detention—without individualized assessment, without
2 statutory justification, and without any realistic prospect of removal in the reasonably
3 foreseeable future—exceeds the narrow detention authority granted by the INA and violates
4 controlling Supreme Court precedent limiting civil immigration detention to purposes expressly
5 authorized by Congress.
6

7 83. Accordingly, Petitioner's ongoing detention is unlawful under the Immigration
8 and Nationality Act, its implementing regulations, and established constitutional principles.
9 Petitioner respectfully requests that this Court order his immediate release or, alternatively,
10 require the government to provide a constitutionally adequate custody hearing before an
11 Immigration Judge with authority to order his release on bond.
12

13
14 **COUNT FOUR**

15 **Violation of the Due Process Clause of the Fifth Amendment to the U.S.**
16 **Constitution**

17 84. Petitioner re-alleges and incorporates by reference the preceding paragraphs as
18 though fully set forth herein.
19

20 85. The Due Process Clause of the Fifth Amendment to the U.S. Constitution
21 prohibits the federal government from depriving any person of "life, liberty, or property, without
22 due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the
23 United States, including [non-citizens], whether their presence here is lawful, unlawful,
24 temporary, or permanent." *Zadvydas*, 533 U.S. at 693.
25

26 86. Due process requires that government action be rational and non-arbitrary. See
27 *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).
28

1 87. While the government has discretion to detain individuals under 8 U.S.C. §
2 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not
3 “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698;
4 *Hernandez*, 872 F.3d 976, 981 (9th Cir. 2017) (“[T]he government’s discretion to incarcerate
5 non-citizens is always constrained by the requirements of due process.”); *Morrissey v. Brewer*,
6 408 U.S. 471, 482 (1972) (holding that due process applies to revocation of parole). Here,
7 Respondents have violated § 1226(a) but arresting Petitioner without a warrant in violating of his
8 due process rights.
9

10 88. Here, after initially releasing Petitioner, Respondents have chosen to re-detain
11 Petitioner in an arbitrary manner and not based on a rational and individualized determination of
12 whether he is a safety or flight risk, in violation of due process. Had Respondents conducted such
13 an assessment, they would have concluded that no facts or circumstances had changed to justify
14 a revocation of Petitioner’s release on recognizance. See *Matter of Sugay*, 17 I&N Dec. 637, 640
15 (BIA 1981) (holding that “where a previous bond determination has been made by an
16 immigration judge, no change should be made by a District Director absent a change of
17 circumstance”); *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), *aff’d sub*
18 *nom.* *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018) (noting that DHS has
19 incorporated *Matter of Sugay* “into its practice, requiring a showing of changed circumstances . .
20 where the previous release decision was made by a DHS officer”).
21

22 89. ICE’s power to arrest a noncitizen who is at liberty is constrained by the demands
23 of due process. See *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017) (“the government’s
24 discretion to incarcerate non-citizens is always constrained by the requirements of due process”).
25 “It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in
26
27
28

1 deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*,
2 507 U.S. 292, 306 (1993)). “Freedom from imprisonment—from government custody, detention,
3 or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause
4 protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J.,
5 dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or
6 arbitrary personal restraint or detention.”).

8 90. On information and belief, because no individualized custody revocation or
9 redetention decision has been made and no circumstances have changed to make Petitioner a
10 flight risk or a danger to the community, Respondents’ have violated Petitioner’s right to
11 procedural due process.
12

13 91. Habeas relief is warranted to remedy these constitutional violations by ordering
14 his immediate release or, in the alternative, requiring a prompt and constitutionally adequate
15 bond hearing before a neutral adjudicator with authority to grant release.
16

17 PRAYER FOR RELIEF

18 WHEREFORE, Petitioner respectfully requests this Court to grant the following:
19

- 20 (1) Assume jurisdiction over this matter;
- 21 (2) Issue an Order to Show Cause ordering Respondents to show cause why this
22 Petition should not be granted within three days;
- 23 (3) Enjoin Respondents from transferring Petitioner during the pendency of the
24 instant action;
- 25 (4) Declare that Petitioner’s continued detention violates the Immigration and
26 Nationality Act, 8 U.S.C. § 1226(a); the Administrative Procedure Act, 5 U.S.C. §
27

706(2)(A); and/or the Due Process Clause of the Fifth Amendment to the U.S. Constitution;

(5) Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody;

(6) In the alternative order, a constitutionally adequate bond hearing at which DHS bears the burden of proving that Petitioner is a danger to the community or risk of flight, or other reasonable conditions of supervision;

(7) Award Petitioner his costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

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

Dated: July 02, 2026.

Respectfully Submitted,

/S/ Kyle J. Howard

Kyle J. Howard, Esq.

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Attorney for Petitioner

PROOF OF SERVICE:

I, the undersigned, declare that my office is in Fresno, CA. I am over the age of eighteen (18) years and not a party to the action within. July 02, 2026, I served the following documents:

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. by placing a true and correct copy in a sealed envelope, each addressed as follows:

Sergio Albarran
Field Office Director
ERO San Francisco Field Office,
U.S. Immigration and Customs Enforcement
630 Sansome St,
San Francisco, CA 94111

Todd M. Lyons
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

Markwayne Mullin
U.S. Department of Homeland Security
2801 Nebraska Avenue NW
Washington, D.C. 20528

Todd Blanche
950 Pennsylvania Avenue NW
Washington, DC 20530-0001

Civil Process Clerk
U.S. Attorney's Office
501 I St, Suite 10-107
Sacramento, CA 95814

Warden of the Mesa Verde Detention Center
425 Golden State Ave,
Bakersfield, CA 932301

By mail. I am readily familiar with the business for collection and processing of correspondence for mailing in the United States Postal Service and that this document, with

1 postage fully prepaid, will be deposited with the United States Postal Service this date in the
2 ordinary course of business.

3 I declare under the penalty of perjury that the foregoing is true and correct. Executed on
4 July 02, 2026, at Fresno, CA.
5

6 /S/ Kyle J. Howard

7 **Kyle J. Howard, Esq.**

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ATTORNEY FOR PETITIONER