

1 LAXMAN ADHIKARI
2 **ADHIKARI LAW AND ASSOCIATES PC**
3 1390 Market Street, Suite 200
4 San Francisco, CA 94102
5 Tel: (650) 483 8614
6 laxman@adhikarilawusa.com
7 *Attorney for Petitioner*

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10
11
12 JASHAMPREET SINGH,

13 Petitioner,

14
15 v.

16 TONYA ANDREWS, ET AL.,

17 Respondents.
18
19
20
21

Civil No.: 1:26-CV-05210-DJC-CKD

**PETITIONER'S REPLY TO
RESPONDENTS' RESPONSE**

22
23
24 Respondents' Response fails to cure the constitutional defects underlying
25 Petitioner's continued detention. Rather than addressing whether the Fifth Amendment
26 permits DHS to revoke Petitioner's liberty without prior process after nearly two years of
27 release, Respondents merely repeat their statutory interpretation of the Immigration and
28 Nationality Act and rely primarily upon an arrest that never resulted in a criminal

1 conviction. Their arguments overlook the fundamental question before this Court:
2 whether the Government may summarily re-detain an individual who has been living in
3 the community under DHS supervision without first providing notice, an opportunity to
4 be heard, and an individualized determination that continued detention is necessary.

5 The answer is no. Petitioner's criminal charges were ultimately dismissed,
6 Respondents possess no competent evidence demonstrating dangerousness or flight risk,
7 and DHS itself permitted Petitioner to remain at liberty for approximately eight months
8 after learning of the arrest before re-detaining him. Those undisputed facts demonstrate
9 that Petitioner's re-incarceration was not based upon any genuine emergency but instead
10 constituted an arbitrary deprivation of liberty in violation of the Fifth Amendment.
11 Accordingly, Respondents' Response should be rejected, and the Court should order
12 Petitioner's immediate release.

13 **Respondents' Arguments Lack Merit**

14 Respondents advance several arguments in support of Petitioner's continued
15 detention. **First**, they contend that DHS possessed statutory authority to re-detain
16 Petitioner following his arrest. **Second**, they argue that the criminal allegations
17 constituted a material change in circumstances warranting revocation of Petitioner's prior
18 release. **Third**, they assert that any constitutional concerns are adequately addressed
19 through the availability of a later custody redetermination before the Immigration Judge.
20 **Finally**, Respondents maintain that habeas relief is inappropriate because Petitioner
21 allegedly remains lawfully detained under the immigration statutes.

22 Each of these arguments fails. Respondents conflate statutory authority with
23 constitutional authority and overlook the independent protections afforded by the Due
24 Process Clause. They rely upon an arrest that resulted in no conviction, ignore the
25 dismissal of the criminal case, fail to explain why DHS waited months before re-
26 detaining Petitioner if he truly posed a danger, and incorrectly assume that a post-
27 deprivation bond hearing can retroactively cure an unconstitutional deprivation of liberty.
28

1 The Constitution requires more. Because Petitioner's liberty was revoked without the
2 procedural protections guaranteed by the Fifth Amendment, Respondents have failed to
3 demonstrate that his continued detention is lawful.

4 **ARGUMENT**

5
6 ***A. Respondents Fail to Demonstrate that Petitioner's Re-Detention was Authorized***
7 ***by Law or the Constitution***

8 Respondents' Response largely repeats the same statutory arguments advanced
9 throughout this litigation while failing to address the constitutional defect underlying
10 Petitioner's continued detention. Although Respondents contend that DHS possessed
11 authority to re-detain Petitioner following his arrest, they fail to establish that the
12 Constitution permits the Government to revoke an individual's liberty—after nearly two
13 years of release into the community—without first providing any individualized hearing
14 or procedural safeguards.

15
16 Petitioner was lawfully released from DHS custody in July 2024 and remained at
17 liberty while his immigration proceedings continued. During that period, he established
18 significant ties within the United States, complied with immigration proceedings, and
19 lived under the supervision of the Government. His liberty therefore became a
20 constitutionally protected interest that could not be withdrawn arbitrarily or without due
21 process of law. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

22 Respondents cite no authority holding that DHS may summarily revoke an
23 individual's liberty based solely upon an arrest, without first obtaining an individualized
24 determination that continued detention is necessary to prevent flight or protect the
25 community. The absence of such procedural safeguards renders Petitioner's re-detention
26 fundamentally inconsistent with the Fifth Amendment.

27
28 ///

1 ***B. A Mere Arrest and a Criminal Case That Was Ultimately Dismissed Do Not***
2 ***Constitute a Material Change Justifying Summary Re-Detention.***

3 Respondents principally rely upon Petitioner's April 2026 arrest as justification for
4 his re-detention. That reliance is misplaced. The criminal prosecution never resulted in a
5 conviction. See the evidence submitted by the respondents (Jashampreet_Dk 5
6 Response.pdf). Instead, the criminal charges were dismissed, and no judgment of guilt
7 was ever entered. Consequently, Respondents rely solely upon an arrest and preliminary
8 allegations that were never proven beyond a reasonable doubt.

9 An arrest, standing alone, is not evidence of dangerousness, nor does it establish
10 that an individual presents a flight risk warranting continued civil detention. The
11 presumption of innocence remains a fundamental constitutional principle throughout the
12 criminal justice system. Because Petitioner's criminal case was dismissed, the
13 Government cannot rely upon mere accusations to justify depriving him of his liberty.

14 Equally significant, Respondents acknowledge that they have not obtained the
15 underlying criminal records supporting the arrest and instead rely upon generalized
16 descriptions of the allegations. The absence of competent evidence further underscores
17 that Petitioner's continued detention rests upon speculation rather than individualized
18 proof.

19 Moreover, DHS waited approximately eight months after Petitioner's arrest before
20 taking him back into custody. If Respondents genuinely believed Petitioner posed an
21 imminent danger to the community, they would not have allowed him to remain at liberty
22 for months following the arrest. Their prolonged delay directly contradicts any assertion
23 that immediate detention was necessary to protect public safety or ensure Petitioner's
24 appearance in immigration proceedings.
25
26
27
28

1 The Government therefore cannot demonstrate that Petitioner's dismissed criminal
2 matter constituted a material change sufficient to justify revoking his previously granted
3 liberty without due process.

4 ***C. The Fifth Amendment Required an Individualized Hearing Before DHS***
5 ***Revoked Petitioner's Liberty.***
6

7 The central issue in this case is not whether DHS may ultimately detain Petitioner
8 after appropriate process. Rather, the constitutional question is whether DHS may first
9 incarcerate him and only later provide an opportunity to contest that detention. The Fifth
10 Amendment answers that question in the negative.

11 Once Petitioner had been released into the United States and remained at liberty
12 for nearly two years, the Government could not revoke that liberty interest without first
13 providing constitutionally adequate procedures. At a minimum, due process required an
14 individualized determination that Petitioner presented either a danger to the community
15 or a substantial risk of flight before DHS returned him to immigration detention.
16

17 Respondents attempt to characterize Petitioner's re-detention as a purely
18 discretionary enforcement decision insulated from judicial review. That position ignores
19 longstanding constitutional principles requiring meaningful procedural protections
20 whenever the Government deprives an individual of physical liberty.

21 The Government's unilateral decision to reincarcerate Petitioner without notice,
22 without a hearing, and without any opportunity to present evidence violated the Due
23 Process Clause irrespective of whether DHS ultimately believes continued detention may
24 be appropriate.
25

26 ***D. A Subsequent Bond Hearing Cannot Cure the Constitutional Violation.***

27 Respondents alternatively argue that any constitutional concerns may be remedied
28 through a subsequent bond hearing before an Immigration Judge. That argument

1 misunderstands the nature of Petitioner's claim. Petitioner does not merely challenge the
2 adequacy of a future custody hearing. Rather, he challenges the constitutionality of the
3 Government's decision to seize and incarcerate him without first providing any
4 procedural protections whatsoever.

5
6 The constitutional injury occurred the moment DHS revoked Petitioner's liberty
7 without due process. A later hearing cannot erase or retroactively validate an
8 unconstitutional deprivation of liberty. Due process generally requires meaningful
9 procedural safeguards before, or at the very least contemporaneous with, governmental
10 action affecting a protected liberty interest.

11 Permitting DHS to incarcerate individuals first and provide process only after
12 litigation has commenced would effectively nullify the procedural protections guaranteed
13 by the Fifth Amendment.

14 ***E. Respondents' Reliance on Matter of Guerra Is Misplaced.***

15
16 Respondents also invoke *Matter of Guerra* in support of continued detention.
17 Their reliance is misplaced. *Matter of Guerra* addresses the factors an Immigration Judge
18 may consider during an individualized custody determination. It does not authorize DHS
19 to dispense with constitutional due process altogether, nor does it permit immigration
20 officers to revoke an individual's previously granted liberty without first obtaining an
21 independent determination regarding dangerousness or flight risk.

22 Thus, *Guerra* presupposes the existence of a lawful custody hearing. It does not
23 excuse the Government's failure to provide one before incarcerating Petitioner.

24
25 ***F. Habeas Relief Requires Petitioner's Immediate Release.***

26 The writ of habeas corpus exists to remedy unlawful executive detention. Here,
27 Petitioner's confinement became unlawful the moment DHS revoked his liberty without
28 constitutionally required process.

1 Unlike cases involving ordinary bond disputes, this action challenges the legality
2 of the re-detention itself. Because the constitutional violation occurred before any
3 custody determination was ever conducted, ordering a future hearing would not fully
4 remedy the deprivation already suffered.

5 The appropriate remedy is immediate release from immigration custody, subject to
6 any reasonable conditions previously imposed by DHS or this Court. Such relief restores
7 the status quo that existed before Respondents unlawfully deprived Petitioner of his
8 liberty and vindicates the procedural protections guaranteed by the Fifth Amendment.

9
10 **CONCLUSION**

11 For the foregoing reasons, and for those set forth in the Petition, Petitioner
12 respectfully requests that this Court reject Respondents' arguments, grant the Petition for
13 Writ of Habeas Corpus, declare Petitioner's re-detention unlawful, and order Respondents
14 to release Petitioner from immigration custody immediately. In the alternative, should the
15 Court determine that additional proceedings are necessary, Petitioner respectfully
16 requests such further relief as the Court deems just and proper, including any relief
17 necessary to remedy the constitutional violations described herein.

18
19 Respectfully submitted on July 13, 2026.

20 /S/Laxman Adhikari

21 Laxman Adhikari

22 CA Bar No.: 361256

23 **ADHIKARI LAW AND ASSOCIATES PC**

24 1390 Market Street, Suite 200

25 San Francisco, CA 94102

26 Tel: (650) 483 8614

27 laxman@adhikarilawusa.com

28 *Attorney for Petitioner*