AO 458 (Rev. 06/09) Appearance of Counsel

UNITED STATES DISTRICT COURT

for the

Eastern District of Virginia

Nimesh Kumar Chaudhari
Plaintiff
v.
Pamela Bondi, et al
Defendant

Case No. 1:25-CV-1772

APPEARANCE OF COUNSEL

To: The clerk of court and all parties of record

I am admitted or otherwise authorized to practice in this court, and I appear in this case as counsel for:

Nimesh Kumar Chaudhari .

Date: 10/13/2025

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UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIGINIA
ALEXANDRIA DIVISION

NIMESH KUMAR CHAUDHARI [redacted] Petitioner, v. **PAMELA BONDI**, U.S. Attorney General; **KRISTI NOEM**, Secretary of the U.S. Department of Homeland Security; **TODD M. LYONS**, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; **JAMES A. MULLAN**, in his official capacity As Assistant Field Office Director of Washington Field Office, U.S. Immigration and Customs Enforcement; and **JEFFREY CRAWFORD**, in his official capacity as warden of the Abyon – Farmville Detention Ctr Respondents.	Case No. 1:25-CV-1772 **PETITION FOR WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Nimesh Kumar Chaudhari, a native and citizen of India, petitions this Court for a Writ of Habeas, 28 U.S.C. § 2241, to challenge his continued custodial detention by the United States Department of Homeland Security, through its component arm, U.S. Immigration and Customs Enforcement ("ICE").

2. Mr. Chaudhari challenges the Respondents' decision to deny him the opportunity for a bond hearing based on their recent reinterpretation of 8 U.S.C. § 1225(b)(2)(A) and their mistaken assertion that Mr. Chaudhari is in their custody pursuant to that provision.

3. The Respondents' reinterpretation of § 1225(b)(2)(A) ignores decades of agency practice, is contrary to: (i) their prior written assertion that Mr. Chaudhari is subject to detention under 8 U.S.C. § 1226(a), (ii) their decision to hold a bond hearing for Mr. Chaudhari in 2019, and (iii) their decision to grant Mr. Chaudhari a bond following that hearing.

4. There is a growing body of case law from within and outside of this judicial district holding that Respondents' reinterpretation of 8 U.S.C. § 1225(b)(2)(A) is contrary to law. *See, e.g., Quispe-Ardiles v. Noem*, 2025 LEXIS 194069 (E.D. Va. Sept. 30, 2025); *Quispe v. Crawford*, 2025 LEXIS 194070 (E.D. Va. 2025) ("as Respondents recognize, other federal courts around the country have found that in order to be detained under § 1225(b)(2), applicants for admission must be actively "seeking admission" and not be just "present" in the U.S."); *Hasan v. Crawford*, ___ F. Supp. 3d ___, 2025 LEXIS 184734 (E.D. Va. Sept. 19, 2025). This is another such case.

5. Mr. Chaudhari's continued detention by Respondents without any mechanism to challenge his confinement violates the Due Process Clause of the Fifth Amendment to the United States Constitution, presents a federal question under 28 U.S.C. § 1331 though the Immigration and Nationality Act, (8 U.S.C. § 1101 *et seq.*) ("INA"), and the Administrative Procedure Act (5 U.S.C. § 551 *et seq.*). Mr. Chaudhari seeks declaratory and injunctive relief under 28 U.S.C. § 1331 in conjunction with 28 U.S.C. § 2201, in the form of an order from this Court requiring his immediate release or, alternatively, that the Respondents provide him with a bond hearing before a neutral and impartial adjudicator.

JURISDICTION AND VENUE

6. Mr. Chaudhari is detained in the Abyon-Farmville Detention Center in Farmville, Virginia, which is within the jurisdiction of the United States District Court for the Eastern District of Virginia.

7. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 ("habeas corpus"), 28 U.S.C. § 1651 ("All Writs Act"), 28 U.S.C. § 1331 ("federal question"), the INA, U.S. CONST. amend. V (the "Due Process Clause"), and 5 U.S.C. § 702 ("Administrative Procedure Act"),

8. This Court has jurisdiction to adjudicate habeas corpus claims brought by foreign nationals who challenge the legality of their detention by U.S. immigration officials. *See Reno v. Flores*, 507 U.S. 292, 307 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings."); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 915 (E.D. Va. 2024) ("The federal habeas corpus statute gives a district court jurisdiction to review immigration-related detention cases") (citing 28 U.S.C. § 2241(c)(3).

9. Title 8 U.S.C. § 1252(g) does not operate as a jurisdictional bar because that statute does not apply to actions taken to detain foreign nationals. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) ("Section 1252(g) 'applies only to three discrete actions,' i.e. commencement of removal proceedings, adjudication of removal cases, and execution of removal orders").

10. Title 8 U.S.C. § 1252(b)(9), does not preclude jurisdiction because that statute applies to review of removal orders and not to detention decisions made prior to the issuance of a removal order. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) ("'where Congress intends

to preclude judicial review of constitutional claims its intent to do so must be clear.'") (quoting *Webster v. Doe*, 486 U.S. 592, 603 (1988)).

EXHAUSTION

11. A petitioner seeking habeas corpus under 28 U.S.C. § 2241 need not exhaust administrative remedies because the statute does not require it. *Compare* 28 U.S.C. § 2241 *with* 28 U.S.C. § 2254(b)(1)(A); *see McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) ("where Congress has not clearly required exhaustion, sound judicial discretion governs.") (citation omitted); s*ee Aguilar v. Lewis*, 50 F. Supp. 2d 539, 541 (E.D. Va. 1999) (clarifying that "there is no federal statute that imposes an exhaustion requirement on aliens taken into custody pending their removal").

12. Although exhaustion is not required, on October 1, 2025, Mr. Chaudhari sought administrative redress by requesting a bond hearing before an Immigration Judge sitting in the Annandale, Virginia, Immigration Court. The Immigration Juge refused to provide a bond hearing, citing a September 5, 2025, precedential decision of the Board of Immigration Appeals in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Matter of Yajure Hurtado*, the Board interpreted 8 U.S.C. § 1225(b)(2)(A) as prohibiting immigration judges from hearing bond requests or granting bond to foreign nationals who are alleged to be present in the United States without admission. The Immigration Judge also cited *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019).

13. Although Mr. Chaudhari can appeal this refusal to the Board of Immigration Appeals, Mr. Chaudhari has no reasonable expectation that the Board will act contrary to its decision in *Yajure Hurtado*. This is particularly so where the Board based its decision on

a purported lack of jurisdiction to conduct bond hearings for foreign nationals who entered the United States without inspection.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court should grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents forthwith, unless Mr. Chaudhari is not entitled to relief. *See* 28 U.S.C. § 2243. If an order to show cause is issued, the Court should require respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

PARTIES

15. Mr. Chaudhari is a native and citizen of India and is now detained by Respondents at Abyon-Farmville Detention Center in Farmville, Virginia. He is in the custody, and under the direct control, of Respondents and their agents.

16. Respondent Jeffrey Crawford is sued in his official capacity as the Warden of the Abyon-Farmville Detention Center in Farmville, Virginia. Respondent Crawford has immediate physical custody of Mr. Campos-Flores and has the authority to release him.

17. Respondent James A. Mullen is sued in his official capacity as Assistant Field Office Director of Washington Field Office, U.S. Immigration and Customs Enforcement and supervises and oversees Respondent Crawford.

18. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement and supervises and oversees Respondent Mullen.

19. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security. In this capacity, Respondent Kristi Noem is responsible for the implementation and enforcement of the Immigration and Nationality

Act ("INA"), and oversees ICE, the component agency directly responsible for Mr. Campos-Flores's detention. *See* 8 U.S.C. § 1103(a). Respondent Kristi Noem is a legal custodian of Petitioner.

20. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Attorney General oversees the Executive Office for Immigration Review and, within the Executive Branch, is the arbiter of all questions of law pertaining to the Immigration and Nationality Act. *See* 8 U.S.C. § 1103(a)(1), 1103(g).

STATEMENT OF FACTS

21. Mr. Chaudhari is a native and citizen of India. He entered the United States without being admitted or paroled on April 21, 2019. *See* Exhibit A (Notice to Appear).

22. Five days prior to Mr. Chaudhari's arrival in the United States, the Attorney General issued his decision in *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019). In that decision, the Attorney General concluded that foreign nationals who are initially placed in expedited removal proceedings and then transferred to full proceedings after establishing a credible fear of persecution are ineligible for bond. *Id.* at 515 (citing 8 U.S.C. § 1225(b)(1)(B)(ii)). The Attorney General explicitly overruled *Matter of X-K-*, 23 I. & N. Dec. 731 (BIA 2005), which held that some foreign nationals transferred from expedited removal proceedings after establishing a credible fear of persecution were eligible for bond. *See Matter of M-S-*, 27 I. & N. Dec. at 509-510. As relevant to this case, at the Department of Homeland Security's request, the Attorney General delayed the effective date of that decision for ninety days. *See id.* at 519 n.8.

23. Immigration records indicate that Mr. Chaudhari was initially detained for expedited removal proceedings. *See* Exhibit B (Form I-213). Mr. Chaudhari expressed a fear of

returning to India, so an Asylum Officer conducted a credible fear interview on May 29, 2019. *See* Exhibit C (Credible Fear Interview). Following the interview, the Asylum Officer found that Mr. Chaudhari had established a credible fear of persecution in India on account of his political opinion. *See id.* A Supervisory Asylum Officer approved the Asylum Officer's decision on May 30, 2019. *See id.*

24. The following day, a Deportation Officer served Mr. Chaudhari with a Notice to Appear ("NTA") in immigration court to defend against the charges that he was (i) present in the United States without having been admitted or paroled (8 U.S.C. § 1182(a)(6)(A)(i)), and (ii) an applicant for admission without a valid entry document (8 U.S.C. § 1182(a)(7)(A)(i)(I)). *See* Exhibit A. A Supervisory Detention and Deportation Officer signed the NTA. The line-level and supervisory immigration officers charged Mr. Chaudhari as present in the United States without having been admitted or paroled – and explicitly declined to charge him as an arriving alien. *See id.*

25. In conjunction with service of the NTA, the same Supervisory Detention and Deportation Officer served Mr. Chaudhari with a Notice of Custody Redetermination. *See* Exhibit D (Notice of Custody Determination). That Notice informed Mr. Chaudhari that, in accordance with Immigration and Nationality Act ("INA") § 236, 8 U.S.C. § 1226, the Department of Homeland Security intended to continue to detain him. *See id.* Mr. Chaudhari sought review of the custody determination before an Immigration Judge. *See id.*

26. Mr. Chaudhary appeared before an Immigration Judge on June 17, 2019, for his custody redetermination hearing. *See* Exhibit E (Order of the Immigration Judge With Respect to Custody). Following the hearing, the Immigration Judge granted bond in the amount of

$23,000. *See id.* Both Mr. Chaudhari and the Department of Homeland Security waived their right to appeal the Immigration Judge's decision granting a bond. *See id.*

27. Mr. Chaudhari satisfied the bond on June 24, 2019. *See* Exhibit F (Immigration Bond Receipt).

28. Mr. Chaudhari applied for asylum in the Orlando Immigration Court on July 2, 2020. That application remains pending.

29. On or about August 18, 2025, while on his way to work, two ICE officers pulled over Mr. Chaudhari. The officers identified themselves and informed Mr. Chaudhari that there was a warrant for his arrest without any explanation as to why. It appears there was considerable difficulty in understanding between the officers and Mr. Chaudhari due to his limited English fluency. Mr. Chaudhari repeatedly requested the officers to allow him to access his wallet so he could present his work authorization document to substantiate his current immigration status. The officers ultimately arrested Mr. Chaudhari but also decided to pursue criminal charges against him two days later.

30. On August 20, 2025, Mr. Chaudhari was charged with two counts of assault and battery, Va. Code, 18.2-57(A), and one count of disorderly conduct. *See* Va. Code 18.2-415; Exhibit G (Virginia Online Case Information). Virginia prosecutors dismissed all charges on September 10, 2025. *See id.*

31. Immigration officials took Mr. Chaudhari back into their custody on or about September 12, 2025.

32. On October 1, 2025, Mr. Chaudhari attempted to participate in a custody redetermination (bond) hearing in the Annandale, Virginia, Immigration Court. At the beginning of the hearing, the Immigration Judge stated that Mr. Chaudhari was detained under 8 U.S.C. §

1225(b)(2)(A) and that he did not have jurisdiction to conduct a bond hearing because of a recent decision of the Board of Immigration Appeals, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Immigration Judge also relied on the Attorney General's decision in *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019), to support his position that he lacked jurisdiction to consider Mr. Chaudhari for a bond. During that hearing, Mr. Chaudhari, through counsel, argued that his detention was under § 1226(a) – just as immigration officials had stated since his arrival in 2019 - and that he was eligible for a bond insofar as he was neither a flight risk nor a danger to the community. *See* Exhibit H (October 1, 2025, Order of the Immigration Judge)

33. At no point prior to the October 1 bond hearing did the Department of Homeland Security argue that *Matter of M-S-* applies to Mr. Chaudhari. At no point prior to the October 1 bond hearing did the Department of Homeland Security argue that Mr. Chaudhari's detention was under 8 U.S.C. § 1252(b)(2)(A).

34. Mr. Chaudhari has been in immigration custody since on or about September 12, 2025.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act, 8 U.S.C. §§ 1225(b) and 1226(a), the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), Not in Accordance with Law and in Excess of Statutory Authority

35. Mr. Chaudhari incorporates and realleges all paragraphs as if fully set forth here.

36. Under the Administrative Procedure Act, a court "shall . . . hold unlawful . . . agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

37. Respondents' theory that Mr. Chaudhari is subject to mandatory detention under 8 U.S.C. § 1225(b) is not in accordance with law and rests on their mistaken recent reinterpretation of the Immigration and Nationality Act's detention provisions at 8 U.S.C. §§ 1225(b) and 1226(a). At least two reasons demonstrate the incorrectness of the Respondents' position.

38. First, the Respondents' theory conflicts with the Supreme Court's opinion in *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

39. In *Jennings*, the Supreme Court instructed that 8 U.S.C. § 1225(b) "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Id.* at 297. Section 1226, on the other hand, applies to aliens already present in the United States." *Id.* at 303. "Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Id.* "Section 1226(a) also permits the Attorney General to release those aliens on bond . . ." *Id.*

40. Mr. Chaudhari has been in the United States for over six years. By any measure, he is "already present in the United States." *Jennings*, 583 U.S. at 303. Under these circumstances, *Jennings* instructs that he is entitled to a bond hearing under 8 U.S.C. § 1226(a). The Respondents' reinterpretation of §§ 1225(b)(2)(A) and 1226(a) conflicts with *Jennings* and is not in accordance with law and in excess of statutory authority.

41. Second, the Respondents' reinterpretation of §§ 1225(b)(2)(A) and 1226(a) is not in accordance with law because it "conflict[s] with the statute's broader structure." *Quispe-Ardiles v. Noem*, 2025 LEXIS 194069, at *15 (E.D. Va. Sept. 30, 2025).

42. It is settled that a "statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant . . . ." *Hibbs v.*

Winn, 542 U.S. 88, 101 (2004) (internal quotations omitted)). The Respondents' "theory of § 1225(b) — that the provision applies to all persons who have not been admitted into the United States — would render multiple provisions of § 1226 superfluous." *Quispe-Ardiles*, 2025 LEXIS 194069, at *16. "For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025)." *Quispe-Ardiles*, 2025 LEXIS 194069, at *16. "If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless." *Id.*

43. In sum, that the Respondents' reinterpretation of §§ 1225(b) and 1226(a) is not in accordance with law because it conflicts with the statutes' broader structure. *See Quispe-Ardiles*, 2025 LEXIS 194069, at *15.

COUNT TWO

Violation of the Immigration and Nationality Act, 8 U.S.C. 1226(a), Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Arbitrary and Capricious and Abuse of Discretion

44. Mr. Chaudhari incorporates and realleges all paragraphs as if fully set forth here.

45. Under 5 U.S.C. § 706(2)(A), a court shall "hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law."

46. "Agency action is arbitrary and capricious 'if the agency has relied on factors which Congress has not intended it to consider, entirely failed to consider an important aspect of

the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.'" *Avail Vapor, LLC v. United States FDA*, 55 F.4th 409, 419 (4th Cir. 2022) (quoting *Motor Vehicle Mfrs. Ass'n of U.S. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

47. Here, the Respondents' reinterpretation of the detention provisions "would upend decades of practice. Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security ("DHS") . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal memorandum explaining that the agency had revisited its legal position" *Martinez v. Hyde*, 2025 LEXIS 141724, at *12 (D. Mass. Jul. 24, 2025) (internal quotation omitted).

48. The Respondents' application of their reinterpretation of § 1225(b)(2) to Mr. Chaudhari also flies in the face of their past actions toward him. On May 31, 2019, immigration officers served him with a Notice of Custody Determination informing him that they were detaining him "[p]ursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations." *See* Exhibit E.

49. Further, the Respondents held a bond hearing for Mr. Chaudhari on June 17, 2019. *See* Exhibit E. At the conclusion of that hearing, they granted him bond, and immigration officials explicitly declined to appeal that decision. *See id.* The Department of Homeland Security never argued that the Attorney General's then-recent decision in *Matter of M-S-*,

27 I. & N. Dec. 509 (A.G. 2019) applied to Mr. Chaudhari, likely because it did not take effect until July 15, 2019. See id. at 519 n.8.

50. In short, the Respondents' treatment of Mr. Chaudhari "since he arrived in the United States unequivocally demonstrates that he is detained pursuant to § 1226(a)." *Hasan v. Crawford*, 202 LEXIS 184734, at *18 (E.D. Va. Sept. 19, 2025). The Respondents' decision to change horses midstream based on their recent reinterpretation of the law, first by the Acting Director of ICE, and weeks later, as rubber-stamped by the Board of Immigration Appeals, is arbitrary and capricious and an abuse of their discretion.

COUNT THREE

Violation of Fifth Amendment Right to Due Process

51. Mr. Chaudhari incorporates and realleges all paragraphs as if fully set forth here.

52. It is settled that the Fifth Amendment's Due Process Clause applies to all "persons" within the United States. *See Matthews v. Diaz*, 426 U.S. 67, 77 (1976). The term "persons" includes foreign nationals such as Mr. Chaudhari. *See id.*

53. It is equally well settled that freedom from confinement is a core liberty interest and violation of that liberty interest raises a colorable substantive due process claim. S*ee, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292, 301 (1993) (collecting cases); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (bodily freedom is the "most elemental of liberty interests").

54. Mr. Chaudari has been in the United States for over six years. In 2019, immigration officers and conducted their initial custody determination under 8 U.S.C. § 1226(a) and when Mr. Chaudhari sought review of that determination under 8 C.F.R. § 1003.19, an

Immigration Judge granted him a bond under 8 U.S.C. § 1226(a). ICE waived its right to appeal that decision. Put simply, ICE chose to place Mr. Chaudhari in a removal proceeding and documented that their detention authority was under 8 U.S.C. § 1226(a). Respondents' abrupt departure from its position that they are detaining Mr. Ortega Miranda under § 1226(a) and that their detention authority somehow transformed to 8 U.S.C. § 1225 (and that he is no longer eligible for bond), violates Mr. Chaudhari's right to substantive due process.

55. Mr. Chaudhari acknowledges *Romero v. Bondi*, 2025 LEXIS 172449 (E.D. Va. Jul. 2, 2025), where a judge of this Court determined that foreign nationals who were initially placed in expedited removal proceedings and subsequently released on bond remain applicants for admission and subject to detention under 8 U.S.C. § 1225(a)(1). *See Romero*, 2025 LEXIS 172449, at *7-8. Notably, the Court in *Romero* relied on *Rodriguez v. Perry*, 747 F. Supp. 3d 911 (E.D. Va. 2024) (Brinkema, J.) to support this conclusion. Subsequent to *Romero*, Judge Brinkema decided *Hasan*, which notes that *Romero's* holding results from a "misread[ing of] *Rodriguez* to stand for the proposition that section 1226(a) protections cover individuals given legal status who are then subsequently placed into removal proceedings." *Hasan*, 2025 LEXIS 184734, at *17.[1]

56. Mr. Chaudhari also has a right to procedural due process. Immigration proceedings are civil and they are intended to be "nonpunitive in purpose and effect." *Zadvydas v. Davis*,

[1] Mr. Chaudhari also acknowledges *Olaya Rodriguez v. Bondi*, 2025 LEXIS 172450 (E.D. Va. Jun 24, 2025); however, Judge Brinkema also concluded that *Olaya Rodriguez* rests on a misreading of *Rodriguez*. *See Hasan*, 2025 LEXIS, at *17. In addition, *Olaya Rodriguez* is factually distinguishable from Mr. Chaudhari's case insofar as in *Olaya Rodrigez*, immigration officials did not grant the petitioner a bond but instead paroled him into the United States under 8 U.S.C. § 1182(d)(5)(A). *See Olaya Rodriguez*, 2025 LEXIS 172450, at * 4-5.

533 U.S. 678, 690 (2001). Over a century of Supreme Court precedent instructs that the Fifth Amendment entitles foreign nationals to procedural due process. *See Reno*, 507 U.S. at 306 (citing *The Japanese Immigrant Case*, 189 U.S. 86, (1903). The Respondents' refusal to provide any process whatsoever contravenes over a century of Supreme Court precedent interpreting the Due Process Clause as applying to foreign nationals such as Mr. Chaudhari. *See, e.g., Matthews v. Eldridge,* 424 U.S. 319, 335 (1976).

57. "To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Matthews v. Eldridge*, 424 U.S. 319 (1976)." *Quispe-Ardiles*, 2025 LEXIS 194069, at * 22. "Under that test, courts must weigh (1) 'the private interest that will be affected by the official action'; (2) 'the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards'; and (3) 'the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.'" *Id.* (quoting *Matthews*, 424 U.S. at 335).

58. Mr. Chaudhari invokes "'the most elemental of liberty interests'; '[t]he interest in being free from physical detention.'" *Quispe-Ardiles*, 2025 LEXIS 194069, at *17 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)) (alterations in original). To be sure, the Respondents' refusal to provide any process whatsoever creates significant risk that Mr. Chaudhari will be deprived of that interest.

59. During the October 1, 2025, hearing, the Respondents' purported to support their refusal to consider Mr. Chaudhari for a bond on *Matter of M-S-*, 27 I. & N. Dec. 509 (A.G. 2019). In *Matter of M-S-*, the Attorney General concluded that foreign nationals who are

originally placed in expedited removal proceedings and then transferred to full proceedings after establishing a credible fear of persecution are ineligible for bond. *Id.* at 515. *Matter of M-S-* did not take effect until July 15, 2019, several weeks after Mr. Chaudhari was released on bond. *See id.* at 519 n.8.

60. The Government's interest in implementing its novel reinterpretation of 8 U.S.C. § 1225(b)(2)(A) is minimal. This new "approach attempts to upend decades of immigration practice." *Hasan*, 2025 LEXIS 184734, at *24. "Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security ("DHS") . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal memorandum explaining that the agency had "revisited its legal position. . . ." *Martinez*, 2025 LEXIS 141724, at *12. In contrast, the resumed application of decades of agency practice will satisfy the Government's interest in enforcement of the immigration laws.

61. In Mr. Chaudhari's case, all three *Matthews* factors weigh heavily in favor of holding that the Respondents' refusal to provide him any process whatsoever violates his right to procedural due process. The Court should grant the petition for a Writ of Habeas Corpus for this reason as well.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(3) Declare that Mr. Chaudhari's detention is not in accordance with law, is arbitrary and capricious, and is an abuse of discretion under 5 U.S.C. § 706, and that his detention violates the Due Process Clause of the Fifth Amendment;

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, alternatively, order that a neutral and impartial adjudicator conduct a bond hearing pursuant to 8 U.S.C. § 1236(a);

(5) Enjoin Respondents from transferring Mr. Chaudhari outside of this district; and

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

Respectfully submitted,

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Motion for Admission Pro Hac Vice Forthcoming

Attorneys for Petitioner

Dated: October 15, 2025

DECLARATION UNDER PENALTY OF PERJURY

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Dated this 9 day of October, 2025.

Nimesh Kumar Chaudhari

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA

CERTIFICATE OF SERVICE

I, Naveed Ahmed, hereby declare that, pursuant to Federal Rule of Civil Procedure 4(i), on October 15, 2025, I caused to be served the following documents in the above-captioned matter:

- Petition for Writ of Habeas Corpus;
- Application for Order to Show Cause; and
- Civil Cover Sheet

I caused the aforementioned documents to be served by USPS certified mail, return receipt requested, at the following addresses:

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2100 Jamieson Ave
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Jeffrey Crawford
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James Mullen, Field Office Director
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Immigration and Customs Enforcement ERO
Washington Field Office
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Pamela Bondi, Attorney General
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Washington, DC 20530

Kristi Noem, Secretary of Homeland Security
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Washington, DC 20528-0485

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on October 15, 2025 at Arlington, Virginia.

/s/ Naveed Ahmed
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Dated: October 15, 2025