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7
8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 Mr. Gurdip Singh,

11 Petitioner/Plaintiff,

12 v.

13 Warden of Adelanto ICE Processing Center and
Joseph Edlow, Director, U.S. Citizenship and
14 Immigration Services,

15 Respondents/Defendants.
16

Case No. 5:25-cv-3024

Agency File: A: 

**PETITION FOR WRIT OF HABEAS
CORPUS**

Note on Motion Calendar:

17 Petitioner Gurdip Singh (Date of Birth, ) is a native and Citizen of India.

18 He last entered the United States in 2002 via an authorized border crossing in Arizona. Mr. Singh
19 filed an application for Asylum in 2002 which was denied in 2011. Mr. Singh is the beneficiary of
20 an approved I-130 petition bearing receipt number  This petition was approved
21 on February 04, 2019, Exhibit A and Mr. Singh was informed of the availability of a visa via the
22 above petition only on May 27, 2025. He is not eligible to adjust status within the United States;
23 therefore, must first return to India and apply for an I-601 waiver before he can be re-admitted to
24 the US as a lawful permanent resident.

25 Separately, Mr. Singh also has a pending application for U-Visa which was filed on
26 May 30, 2017. The I-918 (U-Visa application) receipt filed concurrently with Form I-192

27 application for waiver for advance permission to enter the United States bear receipt numbers

28  A letter confirming he had met the requirements for a bona fide application

1 for a U-Visa was issued on June 28, 2022. The only reason he has been unable to receive lawful
 2 status is that visas are not currently available due to the lack of available visa numbers.

3 These applications are still pending at USCIS.

4 On October 25, 2025, U.S. Immigration and Customs Enforcement (“ICE”) detained
 5 Mr. Singh and he is currently being detained at Adelanto ICE Processing Center. Because
 6 Mr. Singh entered the country in 2002 without inspection, ICE will refuse him a bond hearing
 7 under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). But Federal district courts in
 8 California have been among those nationwide to disagree with the BIA’s interpretation.
 9 This court in particular has already disagreed with the BIA interpretation. In particular, in
 10 *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) this court noted
 11 that BIA’s decision in *Yajure Hurtado* renders requiring prudential exhaustion futile. This court
 12 also declined to abide by the BIA interpretation in *Arrazola-Gonzalez v. Noem*, 2025,
 13 EL 2379285 (C.D. Cal. Aug 15, 2025)

14 As such, this Court should order Respondents to provide Mr. Singh a bond hearing
 15 immediately. This Court should order the Respondents to respond within three days to explain
 16 why Mr. Singh should not receive a bond hearing. 28 U.S.C. § 2243 (“The writ, or order to show
 17 cause shall be directed to the person having custody of the person detained. It shall be returned
 18 within three days unless for good cause additional time, not exceeding twenty days, is allowed.”).

19 PARTIES

20 1. Petitioner Gurdip Singh (A# ) is a citizen and national of India.
 21 He is a longtime resident of Eastville, CA. At the time of this filing, he is detained in the
 22 Adelanto Detention Center in California.

23 2. Respondent Warden of Adelanto ICE Processing Center is the immediate
 24 custodian over Mr. Singh.

25 3. Respondent/Defendant Joseph Edlow is the Director of U.S. Citizenship and
 26 Immigration Services. In his official capacity, he is responsible for adjudicating all immigration
 27 benefits within a reasonable amount of time.

28 ///

JURISDICTION AND VENUE

4. This Court has jurisdiction to hear Petitioner's habeas claim under 28 U.S.C. § 2241 because his current detention without a bond hearing is unlawful and unconstitutional.

5. This Court further has jurisdiction under 28 U.S.C. § 1331 over Petitioner/Plaintiff's unreasonable delay claim under 5 U.S.C. § 703 because, absent a special statutory review proceeding, this Court can hear an APA claim in "any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction." 5 U.S.C. § 703.

6. Venue is proper because, at the time of filing, Petitioner is currently detained in Adelanto Detention Center, which is geographically located in this District and Division. Further, U.S. Citizenship and Immigration Services further transacts business in the county.

7. Petitioner need not exhaust any remedies such as requesting a bond hearing from an immigration judge because any such request would be futile as immigration judges are bound by the Board of Immigration Appeals and the Board of Immigration Appeals has determined that noncitizens like Petitioner are subject to mandatory, bondless detention under 8 U.S.C. § 1225. Thus, any request for bond would be futile as the immigration judge must hold it has no jurisdiction to consider bond from Petitioner under *Matter of Yajure Hurtado*, 29 I. & N. Dec.

FACTS

8. Petitioner Gurdip Singh ("Mr. Singh") is a citizen and national of India.

9. Mr. Singh entered the United States without inspection in May 2002.

10. Mr. Singh filed for Asylum in 2002. He was apparently ordered removed by an Immigration Judge in San Francisco in 2003. He appealed the removal, but that appeal process came to an end in 2011.

11. In April 2011, Mr. Singh married Mrs. Mandeep Singh Bhatti, a US Citizen, and mother of his US Citizen child.

12. Mr. Singh's wife, Mrs. Mandeep Singh then filed a Form I-130 on his behalf on November 06, 2017. Defendant U.S. Citizenship and Immigration Services ("USCIS") received and approved the application; however, due to the backlog of applications compared to available

1 visas, Mr. Singh was informed that a visa was finally available only in May 2025.

2 13. In 2017, Mr. Singh was the victim of a stabbing at his then place of employment.
3 During a botched attempted robbery, two individuals entered his workplace and slashed
4 Mr. Singh on his arms and wrists when he confronted them. The U-visa application bearing
5 receipt number [REDACTED] was received at USCIS on May 30, 2017. This application is
6 still pending final adjudication at USCIS.

7 14. Mr. Singh received a letter in June 2022 informing him that he met the
8 requirements for a bona fide U-Visa application, but that the shortage of visas compared to
9 applications on file meant his case could not move to a final adjudication until visas are available.

10 15. When USCIS approves the Form I-918 for U-Visa, Mr. Singh will be able to
11 adjust status within the United States as an application for waiver seeking advance permission to
12 enter the US (Form I-192) was filed concurrently with the U-Visa application form I-918.

13 16. Mr. Singh has, as stated above, already received notification of an available visa
14 based on the earlier filed I-130; however, he will be required to return to his native India and seek
15 consular processing before he can re-enter the United States as a Lawful Permanent Resident.

16 17. During his time in the US, Mr. Singh has learned English from scratch, he learned
17 how to run a freight company based on his prior employment, and now helps Ms. Singh run her
18 freighting businesses with control over day-to-day operations and operational oversight, and
19 strategic planning.

20 18. Mrs. Singh is the sole owner of three different entities: [REDACTED];

21 [REDACTED] Due to the efforts of Mr. Singh, and based on his
22 knowledge of the trucking/freight industry, the entities that Ms. Singh owns and operates
23 currently employs a minimum of 35 US Citizen and Lawful Permanent Resident employees as
24 either full time (W-2) or 1099 (Independent Contractor).

25 19. Mr. Singh resides with his family in Eastville, California, in the same home he has
26 resided in for over 10 years.

27 20. On October 21, 2025, Mr. Singh was leaving home at 10:00 am Pacific Standard
28 Time.

1 21. Agents from ICE were outside on the street. Mr. Singh was asked for his driver's
2 license which he presented.

3 22. Mr. Singh was asked for his driver's license which he presented.

4 23. Then, with no reasonable suspicion or probable cause, the officer asked Mr. Singh
5 about his immigration status.

6 24. Mr. Singh was detained and later transported to the Adelanto ICE Processing
7 Center where he currently remains.

8 25. According to the Executive Office of Immigration Review's "Automated Case
9 Information," Mr. Singh is not currently set for a master calendar hearing in removal proceedings.
10 He was previously ordered removed on May 09, 2003 by an Immigration Judge in San Francisco.

11 26. The immigration judge will not give Mr. Singh a bond hearing.

12 27. The Board of Immigration Appeals recently held that immigration judges do not
13 have jurisdiction to provide a bond hearing to any noncitizen who enters the United States
14 unlawfully, regardless of how long they've lived in the United States. *Matter of Yajure Hurtado*,
15 29 I. & N. Dec. 216 (BIA 2025).

16 28. Immigration judges do not have authority to ignore BIA precedent. 8 C.F.R.
17 § 1003.1(g)(1) ("decisions of the Board and decisions of the Attorney General are binding on all
18 officers and employees of DHS or immigration judges in the administration of the immigration
19 laws of the United States.").

20 29. Mr. Singh will not get a bond hearing and he will be subject to indefinite detention
21 while his removal proceedings proceed.

22 30. Mr. Singh is a very good candidate for bond.

23 31. First, he is a long time resident of Eastville, California having lived in the same
24 address for more than 10 years.

25 32. Second, he has no criminal history *and* he has relief from removal available. He is
26 awaiting his long-pending Form I-918 and, once approved, he will be able to use the provisional
27 waiver which he has already filed and pursue lawful permanent residency.

28 33. Third, his family is suffering significantly. His son is currently in university at

1 University of California – Irvine and is experiencing significant anguish. Mr. Singh’s wife has
 2 been experiencing significant mental and emotional trauma has been receiving ongoing medical
 3 care from a mental health professional. She has also suffered a number of medical issues over the
 4 last 10 years that have left her in a much weaker physical state. These medical concerns include a
 5 spinal injury in August 2024 which has made walking and basic daily movements that much
 6 harder. She has also been diagnosed with fibromyalgia an previously had her gall bladders
 7 removed, and also had partial uterus removed.

8 34. Given her past and ongoing medical concerns, there is little likelihood that Mrs.
 9 Singh would be able to manage this very successful business they have built from the group up.
 10 The resulting financial loss will not be to the owner alone, but also to the workers they employ,
 11 and the trickle down impact on the local and interstate economies from the drivers who drive
 12 various routes across the US.

13 35. Finally, he is not a flight risk as he has a home, his wife owns and operates
 14 businesses and they have employees and family in California.

15 36. Respondents intend to detain Mr. Singh with no bond is unconstitutional and this
 16 Court should order Respondents to provide him a bond hearing immediately.

17 **FIRST CLAIM FOR RELIEF**

18 **(Unauthorized, Bondless Detention)**

19 37. The Immigration and Nationality Act (“INA”) establishes two distinct statutory
 20 authorities under which the government may detain noncitizens pending removal proceedings:
 21 8 U.S.C. § 1225 and 8 U.S.C. § 1226

22 38. Section 1225(b) governs “applicants for admission,” meaning individuals
 23 encountered at or near the border seeking entry into the United States or those apprehended
 24 immediately after unlawful entry. By its plain terms and legislative context, § 1225(b) applies to
 25 persons who are literally in the process of seeking admission and authorizes mandatory detention
 26 during that limited threshold period.

27 39. Section 1226(a), by contrast, governs detention of noncitizens who are already
 28 *present in the interior of the United States* and subject to removal proceedings. It vests the

1 Attorney General with discretion to either detain or release such individuals on bond, permitting
2 individualized custody determinations by Immigration Judges.

3 40. For decades, the Department of Homeland Security (“DHS”) and its predecessor
4 agencies uniformly applied § 1226(a) to individuals like Petitioner—noncitizens who entered
5 without inspection years earlier, developed ties in the United States, and were later apprehended
6 well after entry. Immigration Judges routinely held bond hearings in such cases under §§ 236 and
7 8 C.F.R. § 1003.19.

8 41. This settled practice was reaffirmed repeatedly in agency and judicial decisions
9 recognizing that once a noncitizen has entered the United States—even unlawfully—and
10 established residence, he or she is “within the United States” and subject to § 1226(a), not §
11 1225(b). See *Matter of Patel*, 15 I. & N. Dec. 666, 668 (BIA 1976) (“An alien who has effected
12 an entry, even without inspection, is physically present in and has entered the United States.”).

13 42. Beginning in July 2025, DHS abruptly abandoned this longstanding interpretation.
14 In an internal memorandum issued on July 8, 2025, Acting ICE Director Todd Lyons directed
15 field offices to treat *all* individuals who entered without inspection—regardless of when or where
16 apprehended—as “applicants for admission” subject to mandatory detention under § 1225(b)(2).

17 43. Two months later, on September 5, 2025, the Board of Immigration Appeals
18 (“BIA”) adopted that view in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025),
19 concluding that noncitizens present in the United States without admission fall under § 1225(b)(2)
20 and thus lack eligibility for bond.

21 44. This reinterpretation upended nearly three decades of settled administrative and
22 judicial practice and has been widely rejected by federal courts. See, e.g., *Garcia v. Noem, et. al.*,
23 No. 1:25-CV-1271, 2025 WL 3017200, at *4 (W.D. Mich. Oct. 29, 2025); *Diaz v. Olson, et. al.*,
24 No. 25 CV 12141, 2025 WL 3022170, at *5 (N.D. Ill. Oct. 29, 2025); *Rodriguez v. Noem, et. al.*,
25 No. 1:25-CV-1196, 2025 WL 3022212, at *6 (W.D. Mich. Oct. 29, 2025); *Puga*, 2025 WL
26 2938369; *Lopez-Campos*, 2025 WL 2496379, at *8; see also *Rodriguez*, 779 F. Supp. 3d at
27 1256-61; *Singh v. Lewis*, No. 4:25-cv-96, 2025 WL 2699219, at *3–5 (W.D. Ky. Sept. 22, 2025);
28 *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828, at *7–12 (W.D. Tex. Sept. 22,

2025); *Campos Leon v. Forestal*, No. 1:25-cv-1774, 2025 WL 2694763, at *2–5 (S.D. Ind. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL 2682255, at *5–9 (E.D. Va. Sept. 19, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-2677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093, 2025 WL 2472136, at *2–4 (W.D. La. Aug. 27, 2025); *Romero*, 2025 WL 2403827, at *8–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142, 2025 WL 2374411, at *9–16 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052, 2025 WL 2370988, at *6–9 (D. Mass. Aug. 14, 2025); Lopez Benitez, 2025 WL 2371588, at *3–9; Rosado, 2025 WL 2337099, at *6–11, report and recommendation adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Gomes*, 2025 WL 1869299, at *6–8.

45. As multiple courts have recognized, the government’s new position “would upend decades of practice” and “ignores the plain statutory structure distinguishing between applicants for admission and those already within the United States.” *Duarte Escobar v. Perry*, 2025 WL 3006742 (E.D. Va. Oct. 27, 2025)

46. These courts have uniformly held that noncitizens who have resided in the United States for years and are apprehended within the interior are detained under § 1226(a), not § 1225(b). As Judge Rodriguez explained in *Mendoza Gutierrez*, “the plain structure of the INA, its legislative history, and decades of agency practice make clear that § 1226 governs detention of long-term residents arrested in the interior of the country.”

47. In *Aguirre Villa*, Judge Cheesbro recommended granting the petitioner’s habeas because he held that: “an ‘alien seeking admission’ is an individual who is actively seeking admission, not one who is already present in the United States.” 2025 WL 3095969 at *9.

48. The Court went on to find that the legislative history of the statute further reinforced this interpretation. *Id.* at *9–10.

49. Finally, the Court openly rejected *Hurtado* as unpersuasive. *Id.* at *10.

50. As such, he held that the petitioner their—a long time resident of the United States—was detained under § 1226(a), not § 1225(b), and therefore, was entitled to a bond hearing. *Id.*

1 51. Here, Mr. Singh has lived in the United States since 2002, though he entered
2 without inspection. He has a U.S. citizen wife and a US citizen child. When he was detained, he
3 was not seeking admission. Rather, he had lived in the United States for more than a decade.

4 52. Respondents are violating Mr. Singh's statutory and constitutional rights by
5 refusing to provide him a bond hearing because he is detained under § 1226(a), not § 1225(b)(2).

6 53. As such, this Court should grant this habeas and order Respondents to provide him
7 a bond hearing immediately.

8 **SECOND CLAIM FOR RELIEF**

9 **Violation of Fifth Amendment Right to Substantive Due Process**

10 54. Mr. Singh incorporates the allegations set forth in Paragraphs 1 through 53, as if
11 fully set forth herein.

12 55. The substantive component of the Due Process Clause of the Fifth Amendment to
13 the United States Constitution protects Mr. Singh's liberty interests. Mr. Singh has a substantive
14 liberty interest in family integrity and as the spouse of a US Citizen and the father of a US
15 Citizen, Mr. Sing and his family members are suffering grave harm due to his prolonged,
16 unjustified and unlawful detention.

17 56. Respondents' policies and actions, as set forth above, have infringed upon
18 Mr. Singh's substantive liberty interest in being free from confinement, and in family integrity.
19 These policies and actions have caused a period of prolonged confinement in detention facilities
20 without any government need, resulting in grave harm to a young child.

21 57. Respondents' policies and actions, as set forth above, have infringed upon
22 Mr. Singh's substantive liberty interest in family integrity.

23 **EQUAL ACCESS TO JUSTICE ACT FEES**

24 58. Respondent's decision to refuse Mr. Singh a bond hearing is not substantially
25 justified.

26 59. USCIS's significant delay in adjudicating the I-918 (U-Visa) and concurrently
27 filed application for waivers (I-192) are not substantially justified.

28 60. Mr. Singh qualifies for fees under the Equal Access to Justice Act.

1 61. This Court should order Respondents to pay reasonable attorney's fees and costs.

2 **PRAYER FOR RELIEF**

3 Mr. Singh Prays this Court will:

4 1. Take jurisdiction over this case;

5 2. Order Respondent to show cause within three days why Mr. Singh should not be
6 provided a bond hearing immediately;

7 3. Grant this writ of habeas corpus and order Respondent to provide Mr. Singh a
8 bond hearing or immediately release him;

9 4. Declare USCIS's Form I-918 and I-192 delay unreasonable and enter an order
10 compelling USCIS to make a final decision within 30 days;

11 5. Award Mr. Singh reasonable attorneys' fees and costs; and

12 6. Enter any other order required for justice to be done.

13 DATED: November 11, 2025

 BUCHALTER
 A Professional Corporation

14
15
16 By: /s/ Ashwin Ram

 ASHWIN RAM
 Attorneys for Petitioner,
 Mr. Gurdip Singh