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**IN THE UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

SUKHWINDER SINGH

Petitioner,

v.

MARK BOWEN, Acting-Warden of the Adelanto
Detention Center; TODD LYONS, Acting
Director of Immigration and Customs
Enforcement; KRISTI NOEM, Secretary of the
U.S. Department of Homeland Security; PAMELA
BONDI, Attorney General of the United States

Respondents.

Civil Action No.

**VERIFIED PETITION FOR
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, is being unlawfully detained by Respondents and deprived of release on bond. Petitioner was born in India and entered the United States on April 16, 2023. He entered the U.S. without inspection and was briefly detained by Department of Homeland Security ("DHS"). Petitioner was released by DHS on Order of Release on Recognizance ("ROR"). The conditions of release required Petitioner to be placed on Alternative to Detention ("ATD") monitoring and mandated that Petitioner check in with Immigration and Customs Enforcement ("ICE") every month.

2. On the April 19, 2023, DHS served Petitioner with a Notice to Appear ("NTA") which

1 designated him as “an alien present in the United States who has not been admitted or paroled” and
2 charged him with removability pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality
3 Act as an “alien present in the United States without being admitted or paroled, or who arrived in the
4 United States at any time or place other than as designated by the Attorney General.”

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6 3. Following his release from detention, Petitioner timely filed a Form I-589, Application
7 for Asylum with the immigration court. Petitioner also obtained gainful employment and complied all
8 the conditions of his Release conditions. Petitioner has no criminal history. Nonetheless, ICE detained
9 Petitioner unexpectedly on August 9, 2025 when he went to his regularly scheduled ICE check in
10 appointment.

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12 4. Petitioner is subject to pre-final order of removal detention under 8 U.S.C. § 1226(a).
13 Noncitizens detained under section 1226(a) are subject to discretionary detention and can request a
14 change in custody redetermination (i.e. bond hearing) with an Immigration Judge (“IJ”). However, on
15 July 8, 2025, DHS issued an internal Interim Guidance (“Policy”) that took the baseless position that—
16 contrary to statutory principles and governing case law—noncitizens like Petitioner who entered the
17 United States without permission or parole are subject to mandatory detention under 8 U.S.C. § 1225(b)
18 instead of discretionary detention under section 1226(a). On September 5, 2025, the Board of
19 Immigration Appeals (“BIA”) issued a decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA
20 2025) that sided with DHS’ position.

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22 5. DHS’ contention that Petitioner is subject to mandatory detention under 8 U.S.C. §
23 1225(b) is without merit. DHS’ Policy has upended decades of DHS’ own interpretation of bond
24 eligibility under sections 1226(a) and 1225(b). The vast majority of district courts across the country
25 that has addressed this issue have rejected DHS’ arguments and found that it violates the INA and
26 noncitizens’ due process rights.
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6. For the foregoing reasons, the Court should grant habeas relief and direct Respondents to release Petitioner.

JURISDICTION

7. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*

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

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

VENUE

10. Venue is proper because Petitioner is detained in Adelanto Detention Facility, which is within the jurisdiction of this District. Venue is also proper in this District because Respondents are officers, employees, or agencies of the United States. *See* 28 U.S.C. § 1391(e).

PARTIES

11. Respondent Mark Bowen is sued in his official capacity as Acting-Warden of the Adelanto Detention Facility. Respondent Bowen is the physical custodian of Petitioner.

12. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has authority to release him.

13. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

14. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

15. Petitioner is a native and citizen of India. He entered the United States on April 16, 2023 and expressed a credible fear of return. He was served with a Notice to Appear and placed into removal proceedings. See Exhibits A-B.

16. Petitioner has no criminal history, no history of violence, and no factors indicating danger or flight risk.

17. ICE previously considered Petitioner on ROR but nonetheless denied release despite Petitioner meeting the applicable parole criteria. See Ex. B ROR.

18. Petitioner has now been detained for an excessive and constitutionally significant period, far beyond what courts in the Ninth Circuit have deemed permissible without a bond hearing. Petitioner’s detention has therefore become prolonged and punitive in nature.

19. Petitioner’s continued detention at Adelanto ICE Processing Center—one of the most heavily criticized detention facilities in the Ninth Circuit—has caused significant hardship and constitutes irreparable harm.

1. Petitioner is a native and citizen of India. See *Exhibit A*.
2. Petitioner entered the United States on or about April 16, 2023, was apprehended near Lukeville, AZ, and expressed a credible fear of persecution. See *Ex. A*.
3. Petitioner was issued a Notice to Appear initiating removal proceedings. See *Exhibit A, NTA*.
4. Petitioner requested and was eligible for parole; however, ICE denied release. See *Exhibit B, ROR*.
5. Petitioner has no criminal history, no danger to the community, and poses no flight risk.
6. Petitioner’s detention has now become prolonged and unconstitutional, lacking adequate procedural protections.

1 7. Following his release from detention, Petitioner timely filed a Form I-589, Application for
2 Asylum, with the immigration court. He subsequently obtained stable employment and fully
3 complied with all conditions of his release on recognizance (ROR). Petitioner has no criminal
4 history. Nevertheless, on August 9, 2025, ICE agents unexpectedly detained Petitioner while he
5 checked in for his ICEN appointment.

6 **STATUTORY FRAMEWORK**

7 20. The INA prescribes three basic forms of detention for noncitizens in removal
8 proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-expedited
9 removal proceedings before an IJ. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a. Individuals in section
10 1226(a) detention are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
11 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain
12 crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

13 21. Second, the INA provides for mandatory detention of noncitizens subject to expedited
14 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under
15 8 U.S.C. § 1225(b)(2).

16 22. Finally, the INA also provides for detention of noncitizens who are subject to final
17 orders of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
18 The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal
19 Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104-208, Div.
20 C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(c) was most
21 recently amended earlier this year by the Laken Riley Act (“LRA”), Pub. L. No. 119-1, 139 Stat. 3
22 (2025).

23 23. Following enactment of the IIRIRA, the EOIR drafted new regulations explaining that,
24 in general, people who entered the country without inspection were not considered detained under
25 section 1225 and that they were instead detained under section 1226(a). *See* Inspection and Expedited
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1 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
 2 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens
 3 who entered without inspection—unless they were subject to some other detention authority—received
 4 bond hearings. This practice was also consistent with the practice prior to the enactment of the IIRIRA,
 5 in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ
 6 or other hearing officer. See 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229
 7 (1996) (noting that section 1226(a) simply “restates” the detention authority previously found at section
 8 1252(a)).

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

20 An “applicant for admission” is an alien present in the United States who has not been admitted
 21 or who arrives in the United States, whether or not at a designated port of arrival. INA §
 22 235(a)(1) [8 U.S.C. § 1225(a)(1)]. **Effective immediately, it is the position of DHS that such**
 23 **aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be**
 24 **released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible
 25 for a custody redetermination hearing (“bond hearing”) before an immigration judge and may
 26 not be released for the duration of their removal proceedings absent a parole by DHS. For
 27 custody purposes, these aliens are now treated in the same manner that “arriving aliens” have
 28 historically been treated. **The only aliens eligible for a custody determination and release**
on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during
removal proceedings are aliens admitted to the United States and chargeable with
deportability under INA § 237, with the exception of those subject to mandatory detention
under INA § 236(c) [8 U.S.C. § 1226(c)].

1 Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants
2 for admission because Form I-286 applies by its terms only to custody determinations under
3 INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception
4 for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will
5 individually advise, if Enforcement and Removal Operations (ERO) previously conducted a
6 custody determination for an applicant for admission still detained in ICE custody, ERO will
7 affirmatively cancel the Form I-286.

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See <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last accessed October 18, 2025) (emphasis original).

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

26. On September 5, 2025, the BIA issued a decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) holding that, based on the plain language of section 1225(b)(2)(A), IJs lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Substantive Due Process

27. The allegations in the above paragraphs are realleged and incorporated herein.

28. Petitioner is challenging DHS’ unlawful custody determination that Petitioner is subject to detention under 8 U.S.C. § 1225(b) and is ineligible for bond and his continued detention under the

1 automatic stay provision at 8 C.F.R. § 1003.19(i)(2), which violates Petitioner's right to substantive
2 due process of law afforded him through the Fifth Amendment to the United States Constitution.

3 29. The Fifth Amendment provides in pertinent part: "No person shall be . . . deprived of
4 life, liberty, or property, without due process of law[.]" U.S. Const. amend. V. "Freedom from
5 imprisonment—from government custody, detention, or other forms of physical restraint—lies at the
6 heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
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8 30. Petitioner is clearly detained pursuant to 8 U.S.C. § 1226(a) and is eligible for release
9 on bond. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b). Respondents have
10 violated Petitioner's due process rights under the Fifth Amendment by detaining him without the
11 possibility of release on bond.
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13 31. As a remedy, the Court should order him released from detention, or alternatively direct
14 that an IJ hold a constitutionally adequate bond hearing.
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16 **COUNT TWO**

17 **Violation of Petitioner's Procedural Due Process Rights**

18 32. The allegations in the above paragraphs are realleged and incorporated herein.

19 33. In *Mathews v. Eldridge*, the U.S. Supreme Court set forth the factors to consider in
20 determining if government action deprives an individual's Fifth Amendment right to procedural due
21 process or whether the government process is constitutionally adequate. 424 U.S. 319 (1976) The
22 *Mathews* factors are as follows: First, the private interest that will be affected by the official action;
23 [S]econd, the risk of an erroneous deprivation of such interest through the procedures used, and the
24 probable value, if any, of additional or substitute procedural safeguards; [Third], the Government's
25 interest, including the function involved and the fiscal and administrative burdens that the additional
26 or substitute procedural requirement would entail. *Id.* at 335.
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5. In the alternative, an individualized bond hearing before a neutral adjudicator within 7 days, with the government bearing the burden of proof by clear and convincing evidence;
6. Grant Equal Access to Justice Act ("EAJA") fees and costs; and
7. Grant any other further relief this Court deems just and proper.

Respectfully,

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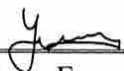
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained at the Adelanto Detention Facility and immediate relief is sought, counsel verifies this petition on his behalf pursuant to 28 U.S.C. § 2242. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 14th day of December, 2025.


Gurpreet Kaur, Esq.