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10 Lovejeet Singh

11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 LOVEJEET SINGH,

14 Petitioner,

15 v.

16 Ernesto SANTACRUZ JR., Acting
17 Director, Los Angeles Field Office,
18 Immigration and Customs Enforcement,
19 Enforcement and Removal Operations;
20 Todd LYONS, Acting Director,
21 Immigration and Customs Enforcement;
22 Kristi NOEM, Secretary, U.S. Department
23 of Homeland Security; U.S.
24 DEPARTMENT OF HOMELAND
25 SECURITY; Pamela BONDI, U.S.
Attorney General; Fereti SEMAIA,
Warden of Adelanto ICE Processing
Center,

Respondents.

Case No.

**PETITIONER'S EX
PARTE APPLICATION
FOR TEMPORARY
RESTRAINING ORDER
AND ORDER TO SHOW
CAUSE**

PETITIONER'S DHS NO:

A 

1 Pursuant to Rule 65(b)(1) of the Federal Rules of Civil Procedure, Petitioner
2 hereby moves this Court for emergency relief in the form of a temporary restraining
3 order (TRO) directing Respondents to immediately release Petitioner from their
4 custody.
5

6 In the alternative, Petitioner requests that Respondents provide Petitioner
7 with an individualized bond hearing before an immigration judge within seven days
8 of the issuance of TRO, at which the government bears the burden of proving by
9 clear and convincing evidence that Petitioner's continued detention is justified.

10 Petitioner further seeks the issuance of a temporary restraining order
11 requiring that, in the event Respondents seek to re-detain Petitioner, Respondents
12 must first provide Petitioner with a pre-deprivation bond hearing before a neutral
13 arbiter.
14

15 Petitioner also seeks a temporary restraining order enjoining the Respondents
16 from relocating Petitioner outside of the Central District of California pending final
17 resolution of this case.
18

19 This application is supported by the Memorandum of Points and Authorities
20 accompanying exhibits, as well as any additional submissions that may be
21 considered by the Court.

22 Dated: December 16, 2025

Respectfully Submitted,

23 /s/Gita B. Kapur

24 Gita B. Kapur

25 Attorney for Petitioner

CERTIFICATE OF COUNSEL

Pursuant to Rule 65(b)(1)(B) of the Federal Rules of Civil Procedure, I
hereby certify that on December 16, 2025 at approximately at 8:00 PM, I emailed
David M. Harris, Chief of the Civil Division, U.S. Attorney's Office, Central
District of California. I provided a copy of the Application for a Temporary
Restraining Order and Memorandum of Points and Authorities to Mr. Harris by
emailing copies to David.M.Harris@usdoj.gov.

Dated: December 16, 2025

Respectfully Submitted

/s/Gita B. Kapur
Gita B. Kapur
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on December 16, 2025, I served a copy of this
Application for TRO and OSC by email to the following individual:

David M. Harris
Chief of the Civil Division
U.S. Attorney's Office
300 N. Los Angeles St., 7th Floor
Los Angeles, CA 90012
Email: David.M.Harris@usdoj.gov

/s/Gita B. Kapur
Gita B. Kapur
Attorney for Petitioner

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10 Lovejeet Singh

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Case No.

**MEMORANDUM OF
POINTS AND
AUTHORITIES IN
SUPPORT OF
APPLICATION FOR
TEMPORARY
RESTRAINING ORDER
AND ORDER TO SHOW
CAUSE**

PETITIONER'S DHS NO:

A 

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1 **I. INTRODUCTION**

2 Petitioner, Lovejeet Singh, by and through undersigned counsel, moves for a
3 Temporary Restraining Order requiring Respondents either to: (1) immediately
4 release him from immigration custody, or (2) in the alternative, provide him with
5 an individualized custody/bond hearing before an immigration judge pursuant to 8
6 U.S.C. § 1226(a) within seven days of this Court's order. Petitioner also seeks an
7 order prohibiting Respondents from transferring him outside the Central District of
8 California while this litigation is pending.

9
10 Although Petitioner has been physically present and residing in the interior
11 of the United States since January 2024, DHS is now detaining him under a new
12 policy issued on July 8, 2025, which instructs ICE officers to treat any person
13 arrested within the United States and charged as inadmissible under 8 U.S.C. §
14 1182(a)(6)(A)(i) as an "applicant for admission" subject to mandatory detention
15 under 8 U.S.C. § 1225(b)(2)(A), and categorically ineligible for bond. Exhibit O
16 (ICE Interim Guidance) Purporting to apply that policy "in coordination with the
17 Department of Justice," ICE officers abruptly arrested Petitioner at his routine,
18 in-person the Intensive Supervision Appearance Program (ISAP) check-in on
19 December 4, 2025, without notice, despite nearly two years of full compliance with
20 ISAP and all immigration-court obligations. He was held at the San Bernardino
21 facility from December 4–8, 2025, and since December 8, 2025, has been detained
22 at the Adelanto ICE Processing Center in Adelanto, California. *See* Exhibit H (ICE
23
24
25

1 Online Detainee Locator).

2 Petitioner's ongoing detention under § 1225(b)(2)(A) violates the plain text
3 and structure of the Immigration and Nationality Act. Section 1225(b)(2)(A) does
4 not apply to individuals like Petitioner who long ago entered the country, have lived
5 in the interior, and are now in removal proceedings as noncitizens "present in the
6 United States without admission or parole." Those individuals are detained, if at all,
7 under 8 U.S.C. § 1226(a), which expressly governs noncitizens already present in
8 the United States and authorizes their release on bond or conditional parole
9 following an individualized custody determination. From the outset, DHS treated
10 Petitioner as a § 1226(a) respondent, charged him as "present" (not "arriving"),
11 released him under § 1226, and supervised him in the community on that basis for
12 nearly two years.
13
14

15 Respondents' new legal interpretation, embodied in the July 8, 2025 policy
16 and implemented through Petitioner's re-detention, is irreconcilable with the
17 statutory framework and decades of agency practice applying § 1226(a) to people
18 in Petitioner's posture. *See* Exhibit O. By re-characterizing him as an "applicant for
19 admission" and invoking § 1225(b)(2)(A), Respondents have categorically denied
20 him any opportunity for an individualized custody determination, despite his clean
21 record (apart from a single pending traffic citation), his consistent compliance, and
22 his strong pending applications for asylum and Special Immigrant Juvenile relief.
23 This unlawful mandatory detention not only exceeds DHS's statutory authority but
24
25

1 also deprives Petitioner of core statutory and constitutional rights and is inflicting
2 ongoing, irreparable harm.

3 Immediate injunctive relief is therefore necessary to preserve the status quo,
4 prevent further unlawful detention and potential transfer out of this District, and
5 ensure that Petitioner receives the individualized custody process that the INA and
6 the Due Process Clause require. Petitioner respectfully asks this Court to enjoin
7 Respondents from continuing to detain him under § 1225(b)(2)(A), to bar his
8 transfer outside the Central District pending resolution of this action, and to order
9 either his immediate release or, at a minimum, a prompt bond hearing under §
10 1226(a) before a neutral adjudicator.
11

12 **II. STATEMENT OF FACTS**

13
14 Petitioner is a nineteen-year-old citizen and national of India. He was born
15 on  in India. *See* Exhibit A (Birth Certificate with Certified
16 English Translation). On January 28, 2024, at the age of eighteen, Petitioner
17 entered the United States at or near Tecate, California, without inspection, and
18 DHS charged him as inadmissible under INA § 212(a)(6)(A)(i), 8 U.S.C. §
19 1182(a)(6)(A)(i). *See* Exhibit B (Record of Deportable/Inadmissible Alien;
20 Warrant for Arrest of Alien; Notice to Appear).
21

22 The Notice to Appear did not classify Petitioner as an “arriving alien.”
23 Instead, it charged him as a noncitizen “present in the United States who has not
24 been admitted or paroled.” *See* Exhibit B. On January 29, 2024, DHS issued a
25

1 Notice of Custody Determination and Order of Release on Recognizance stating
2 that Petitioner was being released on his own recognizance "in accordance with
3 section 236 of the Immigration and Nationality Act," codified at 8 U.S.C. § 1226.
4
5 See Exhibit C. (Notice of Custody Determination and Order of Release on
6 Recognizance (stating release "[i]n accordance with section 236 of the INA," i.e.,
7 8 U.S.C. § 1226)). From that point forward, DHS treated him as a § 1226(a)
8 detainee in standard § 240 removal proceedings and supervised him in the
9 community through regular ISAP check-ins.

10 For approximately one year and ten months after his January 2024 release,
11 Petitioner complied fully with all release conditions: he reported to ISAP as
12 directed, completed SmartLINK check-ins, appeared at all immigration court
13 hearings, lived stably with his aunt and cousins at his verified address, worked,
14 , and developed strong
15 family and community ties in San Bernardino. See collectively Exhibit I
16 (Declaration of Manjit Kaur, Petitioner's Legal Guardian and Aunt; Permanent
17 Residence Card); Exhibit J (ISAP Individual Service Plan, dated Feb. 12, 2024);
18 Exhibit L (Letter from ); Exhibit M (Photos Petitioner's
19 Active Participation in Religious Services); and Exhibit N (Declarations of
20 Petitioner's Cousins along with their Identifications, Legal permanent Resident,
21 Cousin, Harmanjot Singh, & United States Citizen, Cousin, Abhijot Singh). Apart
22 from a single May 11, 2025 traffic citation—which resulted only in a "Notice to
23
24
25

1 Appear,” towing, and fingerprinting, with no arrest, booking, or conviction—
2 nothing in Petitioner’s conduct or immigration case changed before ICE abruptly
3 re-detained him at an ISAP appointment on December 4, 2025. In May 2024, he
4 filed an I-589 Application for Asylum, Withholding of Removal, and Convention
5 Against Torture with the Immigration Court in Santa Ana, California; his
6 individual merits hearing was originally scheduled for October 6, 2026, at 1:00
7 p.m. Pacific Time but the court has since changed the hearing with a pending
8 hearing date still to be decided. *See* Exhibit D (Notice of In-Person Individual
9 Hearing on I-589 Application for Asylum, Withholding of Removal, and
10 Convention Against Torture; Immigration Court scheduled hearing date October
11 14, 2026; Automated Case Information Screen Shot).

14 In March 2025, Petitioner’s aunt, lawful permanent resident Manjit Kaur,
15 filed a Petition for Appointment of Guardian and a Petition for Special Immigrant
16 Juvenile (SIJ) Findings in the Superior Court of California, County of San
17 Bernardino. On June 10, 2025, the state court issued orders appointing Ms. Kaur
18 as Petitioner’s legal guardian and making the requisite SIJ predicate findings that
19 reunification with one or both parents is not viable and that it is not in Petitioner’s
20 best interests to return to India. *See* Exhibit E (Orders For Appointing Guardian
21 and Special Immigrant Juvenile Findings, dated June 10, 2025). Relying on those
22 orders, Petitioner filed a Form I-360 SIJ petition with USCIS in July 2025, which
23 remains pending with a receipt and priority date of August 1, 2025. *See* Exhibit F
24
25

1 (Form I-360 Receipt Notice, Petition for Special Immigrant Juvenile; showing
2 receipt date and priority date of August 1, 2025).

3 The only adverse incident during his time in the community is a single
4 traffic case. On May 11, 2025, the California Highway Patrol issued Petitioner a
5 “Notice to Appear” (Citation No. RT45563) for allegedly driving the wrong way
6 in violation of California Vehicle Code § 21651(b). The citation form is marked as
7 a misdemeanor with “booking required,” and CHP separately provided a
8 fingerprint notification/verification form, and his vehicle was towed by Hayes
9 Towing LLC and released the next day. *See* Exhibit G (Traffic Ticket and Towing
10 Documents, dated May 11, 2025). In practice, the officer exercised
11 cite-and-release: Petitioner was not taken into custody, was not booked into jail,
12 and simply received the citation and associated paperwork. There was no accident,
13 no injury, no allegation of alcohol or other aggravating conduct, and, to date, no
14 conviction arising from this incident. *See Id.*

15 Petitioner continued to comply with all ISAP obligations after May 11,
16 2025. *See* Exhibit J. He appeared at all scheduled immigration-court hearings and
17 maintained communication with ISAP and his case specialist. *Id.* Between his
18 initial release in January 2024 and December 4, 2025, Petitioner did not miss a
19 check-in, did not abscond, and did not incur any criminal convictions.

20 On July 8, 2025, DHS issued interim nationwide guidance instructing ICE
21 officers to treat all noncitizens arrested in the United States and charged under 8
22
23
24
25

1 U.S.C. § 1182(a)(6)(A)(i) as “applicants for admission” subject to mandatory
2 detention under 8 U.S.C. § 1225(b)(2)(A), and thus ineligible for bond. *See*
3 Exhibit O. Acting under that policy, ICE officers arrested Petitioner without
4 warning at his regularly scheduled, ISAP check-in on December 4, 2025. He did
5 exactly what he was supposed to do—appear for his appointment—and was taken
6 into custody on the spot, without any advance notice, pre-deprivation hearing, or
7 individualized assessment of changed circumstances. From December 4 to
8 December 8, 2025, Petitioner was detained at the San Bernardino facility, and
9 since December 8, 2025, he has been detained at the Adelanto ICE Processing
10 Center in Adelanto, California. *See* Exhibit H.
11

12
13 Thus, the only “changes” between January 2024 and December 2025 are:
14 (1) a single May 11, 2025 traffic citation handled by citation and release with no
15 jail or conviction, and (2) DHS’s July 8, 2025 policy reinterpretation of its
16 detention authority. *See* Exhibit O. Petitioner’s own conduct and equities—steady
17 ISAP compliance, strong family support, pending asylum and SIJ relief—have
18 only improved, underscoring that his present detention is arbitrary and
19 policy-driven, not fact-driven.
20

21 Petitioner has not been afforded any custody hearing before an immigration
22 judge and has been told he is now subject to mandatory detention under §
23 1225(b)(2)(A) because of the new DHS/DOJ interpretation, notwithstanding his
24 prior treatment under § 1226(a) and his nearly two years of community
25

1 supervision. He remains in civil immigration detention solely on the basis of this
2 new policy.

3 Petitioner's detention is inflicting severe harm. Ms. Kaur, Petitioner's aunt
4 and legal guardian, regards him as a son and whose home the state court
5 designated as his place of safety, relies on his presence for both practical help and
6 emotional support. In her declaration, she describes the panic, anxiety,
7 sleeplessness, and physical decline she has experienced since his sudden
8 detention, and the disruption of the family unit built to protect him from further
9 abuse. *See* Exhibit I. Petitioner himself fled severe physical and emotional abuse
10 in India and has reported being punched and kicked by an officer during this
11 detention, an assault that echoes the trauma he fled and has left him terrified,
12 helpless, and emotionally distraught. The conditions at Adelanto—dirty,
13 overcrowded housing, constant bright lights, and noise that make sleep difficult—
14 have exacerbated his trauma and caused significant psychological and physical
15 strain. *See Id.*

16 Despite nearly two years of perfect compliance, no criminal convictions,
17 and strong pending claims to relief (asylum and SIJ), DHS is now detaining
18 Petitioner as a mandatory § 1225(b)(2)(A) “applicant for admission” solely by
19 virtue of its new policy, and continues to refuse him any individualized custody
20 determination.
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1 **III. ARGUMENT**

2 The requirements for granting a TRO are “substantially identical” to those
3 for granting a preliminary injunction. *Stuhlbarg Int’l Sales Co. v. John D. Brush &*
4 *Co.*, 240 F.3d 832, 839 n.7 (9th Cir. 2001).

5
6 Petitioner must demonstrate that (1) he is likely to succeed on the merits of
7 his claims; (2) he is likely to suffer irreparable harm in the absence of preliminary
8 relief; (3) the balance of equities tips in his favor; and (4) an injunction is in the
9 public interest. *Winter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008). A sliding
10 scale test may be applied and an injunction should be issued when there is a stronger
11 showing on the balance of hardships, even if there are “serious questions on the
12 merits ... so long as the plaintiff also show a likelihood of irreparable harm and that
13 the injunction is in the public interest.” *All. For the Wild Rockies v. Cottrell*, 632
14 F.3d 1127, 1135 (9th Cir. 2011); *see also Flathead-Lolo-Bitterroot Citizen Task*
15 *Force v. Montana*, 98 F.4th 1180, 1190 (9th Cir. 2024).

16
17 Petitioner satisfies the criteria and a TRO should be granted.

18
19 **A. Petitioner is Likely to Succeed on the Merits of His Claims**

20 Petitioner is likely to succeed on his claims that he is not subject to mandatory
21 detention and that DHS’s reclassifying him under a § 1225(b)(2)(A) framework
22 without any opportunity to seek a bond hearing before a neutral arbiter is in
23 violation of the INA and the Due Process Clause.

24 This case presents a pure statutory question: whether a long-present
25

1 noncitizen arrested in the interior and charged under 8 U.S.C. § 1182(a)(6)(A)(i) is
2 detained under § 1226(a)'s discretionary regime or instead is subject to mandatory
3 detention as an "applicant for admission" "seeking admission" under §
4 1225(b)(2)(A). The text, structure, and history of the INA confirm that § 1226(a)
5 governs Petitioner's detention and that Respondents' reliance on § 1225(b)(2) is
6 unlawful.
7

8 The text, context, and legislative and statutory history of the Immigration and
9 Nationality Act all demonstrate that 8 U.S.C. §1226(a) governs his detention.

10 1. The Text of 8 U.S.C. §1226(a) and 8 U.S.C. §1225(b)(2) Demonstrates that
11 Petitioner is Not Subject to Mandatory Detention.
12

13 First, Petitioner's status as an individual with more than a year of
14 uninterrupted residence in the U.S. following his release on his own recognizance
15 in 2024 places him squarely within the discretionary detention framework of 8
16 U.S.C. §1226(a).
17

18 Specifically, ICE's Order of Release on Recognizance stated that Petitioner
19 was released on his own recognizance "[i]n accordance with section 236 of the
20 Immigration and Nationality Act," codified at 8 U.S.C. §1226. Additionally, the
21 NTA issued by DHS to Petitioner did not classify him as an "arriving alien."
22 Instead, the NTA charged him as "present in the United States who has not been
23 admitted or paroled." This classification places him squarely within 8 U.S.C. §1226,
24 not 8 U.S.C. §1225. See Exhibits B, C, and D.
25

1 It is therefore unlawful to deny him any bond hearing based on an overbroad
2 reading of §1225(b)(2)(A), which is the mandatory detention regime for certain
3 noncitizens being inspected as “applicants for admission,” not for long-present
4 interior residents like Petitioner. The plain text of the INA, as recently interpreted
5 in *Maldonado Bautista v. Santacruz Jr., et al.*, Case No. 5:25-cv-01873-SSS-BFM
6 (C.D. Cal.) dictates that a noncitizen arrested in the interior after years of residence
7 and long-standing treatment as a §1226(a) respondent is not subject to mandatory
8 detention under §1225(b)(2).
9

10 By its own terms, §1226(a) applies to anyone who is detained “pending a
11 decision on whether the [noncitizen] is to be removed from the United States.” 8
12 U.S.C. §1226(a). Section 1226 explicitly confirms that this authority includes not
13 just noncitizens who are deportable pursuant to 8 U.S.C. §1227(a), but also
14 noncitizens, such as Petitioner, who is inadmissible pursuant to 8 U.S.C. §1182(a).
15 While §1226(a) provides the right to seek release, §1226(c) carves out specific
16 categories of noncitizens from being released – including certain categories of
17 inadmissible noncitizens – and subjects them instead to mandatory detention. *See*,
18 e.g., §1226(c)(1)(A), (C).
19
20

21 If Respondents’ position that §1226(a) did not apply to inadmissible
22 noncitizens such as Petitioner, who is present without admission in the United
23 States, there would be no reason to specify that §1226(c) governs certain persons
24 who are inadmissible; instead, the statute would have only needed to address people
25

1 who are deportable for certain offenses. Notably, recent amendments to §1226
2 dramatically reinforces that this section covers people like Petitioner who DHS
3 alleges to be present without admission. The Laken Riley Act (LRA) added
4 language to §1226 that directly references people who have entered without
5 inspection and who are present without admission. *See* LRA, Pub. L. No. 119-1,
6 139 Stat. 3 (2025).

8 Specifically, pursuant to the LRA amendments, people charged as
9 inadmissible pursuant to §1182(a)(6) (the inadmissibility ground for presence
10 without admission) or §1182(a)(7) (the inadmissibility ground for lacking valid
11 documentation to enter the United States) and who have been arrested, charged
12 with, or convicted of certain crimes are subject to §1226(c)'s mandatory detention
13 provisions. *See* 8 U.S.C. §1226(c)(1)(E). By including such individuals under
14 §1226(c), Congress further clarified that, by default, §1226(a) covers persons
15 charged under §1182(a)(6) or (a)(7) and the additional crime-related provisions of
16 §1226(c)(1)(E) do not apply, then §1226(a) governs that person's detention. *See*
17 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)
18 (observing that a statutory exception would be unnecessary if the statute at issue did
19 not otherwise cover the excepted conduct).

22 Despite the clear statutory language, DHS issued a new policy on July 8,
23 2025 instructing all Immigration and Customs Enforcement (ICE) employees to
24 consider anyone inadmissible under §1182(a)(6)(A)(i), i.e., those who are present
25

1 without admission, to be an “applicant for admission” and therefore subject to
2 mandatory detention pursuant to §1225(b)(2)(A). *See* Exhibit O. The new policy
3 was implemented “in coordination with” the DOJ. *Id.* And on September 5, 2025,
4 the BIA, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopted this
5 same position.
6

7 The new policy is also inconsistent with the canon against superfluities.
8 Under this “most basic [of] interpretive canons, ... ‘[a] statute should be construed
9 so that effect is given to all of its provisions, so that no part will be inoperative or
10 superfluous, void or insignificant.” *Corley v. United States*, 556 U.S. 303, 314
11 (2009) (third alteration in original) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101
12 (2004)); *see also Shulman v. Kaplan*, 58 F.4th 404, 410-11 (9th Cir. 2023)
13 (“[C]ourt[s] ‘must interpret the statute as a whole, giving effect to each word and
14 making every effort not to interpret a provision in a manner that renders other
15 provisions of the same statute inconsistent, meaningless or superfluous.” (citation
16 omitted)). But by concluding that the mandatory detention provision of §1225(b)(2)
17 applies to Petitioner, DHS and EOIR violate this rule.
18
19

20 In sum, §1226’s plain text demonstrates that §1225(b)(2) should not be read
21 to apply to everyone who is in the U.S. “who has not been admitted.” Section
22 1226(a) covers those who are present within and residing within the U.S. and who
23 are not at an international border seeking admission.
24
25

1 The text of §1225 reinforces this interpretation. As the Supreme Court
2 recognized, §1225 is concerned “primarily [with those] seeking entry,” *Jennings v.*
3 *Rodriguez*, 583 U.S. 281, 297 (2018), i.e., “at the Nation’s borders and ports of
4 entry, where the Government must determine whether a[] [noncitizen] seeing to
5 enter the country is admissible,” *Id.* at 287.
6

7 Paragraphs (b)(1) and (b)(2) in §1225 reflect this understanding. To begin,
8 paragraph (b)(1), which concerns “Expedited removal of inadmissible arriving
9 [noncitizen],” encompasses only the “inspection” of certain “arriving” noncitizens
10 and other recent entrants the Attorney General designates, and only those who are
11 “inadmissible under §1182(a)(6)(C) or §1182(a)(7).” 8 U.S.C. §1225(b)(1)(A)(i).
12

13 These grounds of inadmissibility are for those who misrepresent information
14 to an examining immigration officer or do not have adequate documents to enter
15 the United States. Thus, subsection (b)(1)’s text demonstrates that it is focused only
16 on people recently arriving at a port of entry or who have recently entered the U.S.
17 and not those already residing here. Paragraph (b)(2) is similarly limited to people
18 applying for admission when they arrive in the U.S. The title explains that this
19 paragraph addresses the “[i]nspection of other [noncitizens],” i.e., those noncitizens
20 who are “seeking admission,” but who (b)(1) does not address. *Id.* §1225(b)(2),
21 (b)(2)(A). By limiting (b)(2) to those “seeking admission,” Congress confirmed that
22 it did not intend to sweep into this section individuals like Petitioner, who have
23 already entered and are now residing in the United States. An individual submits an
24
25

1 “application for admission” only at “the moment in time when the immigrant
2 actually applies for admission into the United States.” *Torres v. Barr*, 976 F.3d 918,
3 927 (9th Cir. 2020) (en banc). Indeed, in *Torres*, the en banc Court of Appeals
4 rejected the idea that §1225(a)(1) means that anyone who is presently in the United
5 States without admission or parole is someone “deemed to have made an actual
6 application for admission.” *Id.* (emphasis omitted). That holding is instructive here
7 too, as only those who take affirmative acts, like submitting an “application for
8 admission,” are those who can be said to be “seeking admission” within
9 §1225(b)(2)(A). Otherwise, that language would serve no purpose, violating a key
10 rule of statutory construction. *See Shulman*, 58 F.4th at 410-11.

13 Furthermore, subparagraph (b)(2)(C) addresses the “[t]reatment of
14 [noncitizens] arriving from contiguous territory,” i.e., those who are “arriving on
15 land.” 8 U.S.C. §1225(b)(2)(C) (emphasis added). This language further
16 underscores Congress’ focus in §1225 on those who are arriving into the United
17 States, not those already residing here. Similarly, the title of §1225 refers to the
18 “inspection” of “inadmissible arriving” noncitizens. *See Dubin v. United States*,
19 599 U.S. 110, 120-21 (2023) (emphasis added) (relying on section title to help
20 construe statute).

22 Finally, the entire statute is premised on the idea that an inspection occurs
23 near the border and shortly after arrival, as the statute repeatedly refers to
24 “examining immigration officer[s],” 8 U.S.C. §1225(b)(2)(A), (b)(4), or officers
25

1 conducting “inspection[s]” of people “arriving in the United States,” *Id.*
2 §1225(a)(3), (b)(1), (b)(2), (d); *see also King v. Burwell*, 576 U.S. 473, 492 (2015)
3 (looking to an Act’s “broader structure ... to determine [the statute’s] meaning”).
4

5 The new DHS and EOIR policy on this basis ignore all this and instead focus
6 on the definition of “application for admission” at §1225(a)(1), which defines an
7 applicant for admission” as a person who is “present in the United States who has
8 not been admitted or who arrives in the United States.” 8 U.S.C. §1225(a)(1).

9 But as the 9th Circuit has explained, “when deciding whether language is
10 plain, [courts] must read the words in their context and with a view to their place in
11 the overall statutory scheme.” *San Carlos Apache Tribe v. Becerra*, 53 F.4th 1236,
12 1240 (9th Cir. 2022) (internal quotation marks omitted). Here, that context
13 underscores that the definition in (a)(1) is limited by other aspects of the statute to
14 those who undergo an initial inspection at or near a port of entry shortly after arrival,
15 and that it does not apply to those who are arrested in the interior of the United
16 States years or decades later.
17

18 Moreover, in deeming that all noncitizens who entered without inspection are
19 necessarily encompassed by the mandatory detention provision at §1225(b)(2), the
20 DHS and EOIR policy ignores that the provision does not simply address applicants
21 for admission. Instead, the language “applicant for admission” in (b)(2)(A) is
22 further qualified by clarifying the subparagraph applies only to those “seeking
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1 admission” – in other words, those who have applied to be admitted or paroled. The
2 new policy and the implementation of the policy ignore this text, just as it ignores
3 the statutory language in §1226 that expressly encompasses persons who have
4 entered the U.S. and are present without admission.
5

6 2. The Legislative History Further Supports the Application of §1226(a) to
7 Petitioner’s Detention.

8 The legislative history of the Illegal Immigration Reform and Immigrant
9 Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, §§302-03, 110
10 Sat. 3009-546, 3009-582 to 3009-583, 3009-585, also supports a limited
11 construction of §1225 and the conclusion that §1226(a) applies to Petitioner. In
12 passing the Act, Congress was focused on the perceived problem of recent arrivals
13 to the United States who did not have documents to remain. *See* H.R. Rep. No. 104-
14 469, pt. 1, at 157-58, 228-29; H.R. Rep. No. 104-828, at 209. Notably, Congress
15 did not say anything about subjecting all people present in the U.S. after an unlawful
16 entry to mandatory detention if arrested.
17
18

19 This is important, as prior to IIRIRA, individuals like Petitioner were not
20 subject to mandatory detention. *See* 8 U.S.C. §1252(a)(1) (1994) (authorizing
21 Attorney General to arrest noncitizens for deportation proceedings, which applied
22 to all persons physically present within the United States). Had Congress intended
23 to make such a monumental shift in immigration law (potentially subjecting
24 millions of people to mandatory detention), it would have explained so or spoken
25

1 more clearly. *See Whitman v. Am. Trucking Ass'ns*, 531 U.S. 457, 468-69 (2001).
2 But to the extent it addressed the matter, Congress explained precisely the opposite,
3 noting that the new §1226(a) merely “restates the current provisions in [INA]
4 section 242(a)(1) regarding the authority of the Attorney General to arrest, detain,
5 and release on bond a[] [noncitizen] *who is not lawfully in the United States.*” H.R.
6 Rep. No. 104-469, pt. 1, at 229 (emphasis added); *see also* H.R. Rep. No. 104-828,
7 at 210 (same).
8

9 3. The Record and Longstanding Agency Practice Reflect that §1226 Governs
10 Petitioner’s Detention.
11

12 DHS’ long practice of considering people like Petitioner as detained under
13 §1226(a) further supports this reading of the statute. Typically, in cases like that of
14 Petitioner, DHS issues a Form I-286, Notice of Custody Determination, or Form I-
15 200, stating that the person is detained under §1226(a) or has been arrested under
16 that statute. This decision to invoke §1226(a) is consistent with longstanding
17 practice. For decades, and across administrations, DHS has acknowledged that
18 §1226(a) applies to individuals who are present without admission after entering
19 the United States unlawfully, but who were later apprehended within the United
20 States long after their entry. Such a longstanding and consistent interpretation “is
21 powerful evidence that interpreting the Act in [this] way is natural and reasonable.”
22 *Abramski v. United States*, 573 U.S. 169, 203 (2014) (Scalia, J., dissenting); *see*
23 *also Bankamerica Corp. v. United States*, 462 U.S. 122, 130 (1983) (relying in part
24
25

1 on “over 60 years” of government interpretation and practice to reject government’s
2 new proposed interpretation of the law at issue).

3 Indeed, agency regulations have long recognized that people like Petitioner
4 are subject to detention under §1226(a). Nothing in 8 C.F.R. §1003.19(h), the
5 regulatory basis for the immigration court’s jurisdiction, provides otherwise. In fact,
6 EOIR confirmed that §1226(a) applies to individuals like Petitioner when it
7 promulgated the regulations governing immigration courts and implementing
8 §1226 decades ago. Specifically, EOIR explained that “[d]espite being applicants
9 for admission, [noncitizens] who are present without having been admitted or
10 paroled (formerly) referred to as [noncitizens] who entered without inspection will
11 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323.3.

12
13
14 In sum, §1226 governs this case. Section 1225 and its mandatory detention
15 provision apply only to individuals arriving in the United States as specified in the
16 statute, while §1226 applies to those who have previously entered without
17 admission and are now present and residing in the United States. one year

18
19 4. Heightened Private Interests Weigh in Favor of Releasing Petitioner
20 Immediately.

21 In 2024, Petitioner properly filed an I-589 Application disclosing the
22 hardships and the persecution he suffered, causing him to leave his home country.
23 He was originally scheduled for an individual merit hearing scheduled for October
24 14, 2026 but the court has since changed the hearing with a pending hearing date
25

1 still to be decided. *See* Exhibit D.

2 Separately, in March 2025, Petitioner's aunt, Manjit Kaur, filed a Petition
3 for Appointment of Guardian and a Petition for Special Immigrant Juvenile
4 Findings in the Superior Court of California, County of San Bernardino. On June
5 10, 2025, the court issued orders appointing Ms. Kaur as the Petitioner's guardian
6 and making the requisite Special Immigrant Juvenile (SIJ) predicate findings,
7 including that reunification with both parents is not viable due to abuse, and
8 neglect Petitioner suffered from his both parents, and that it is not in the
9 Petitioner's best interest to be returned to India due to the political persecution he
10 suffered in India and the lack of any meaningful support system. *See* Exhibits E
11 and I.
12

13
14 Relying on the June 10, 2025, court orders, Petitioner filed I-360 Petition in
15 July 2025. The I-360 Petition remains pending, with a receipt date and priority date
16 of August 1, 2025. At the same time, his I-589 asylum application remains pending
17 before the immigration court. *See* Exhibits D and F.
18

19 Petitioner has consistently appeared at all of his scheduled ISAP and ICE
20 check-in appointments. On December 4, 2025, Petitioner appeared for his regularly
21 scheduled ICE check-in appointment. Upon arrival, Petitioner sat in the waiting
22 area where three other individuals were also seated. While the Petitioner was simply
23 waiting for his appointment, an ICE officer entered the room and placed those three
24 individuals into custody. The officer then asked who the Petitioner was. A second
25

1 officer informed him that Petitioner was present for his scheduled check-in. In
2 response, the first officer stated, "Take him into detention as well." Without
3 warning or prior notice, Petitioner was immediately detained, with no explanation,
4 questioning, or opportunity to provide a statement. See Exhibit I.

5
6 Since the time of Petitioner's release on his recognizance from January 2024,
7 until he was taken into custody by ICE, he has been living with his aunt, cousins,
8 spending time with family, working, and developing ties with his community.
9 Petitioner has had only one negative contact with law enforcement: a pending traffic
10 citation alleging a single count of wrong-way driving under California Vehicle
11 Code § 21651(b), with a required court appearance and a fingerprinting requirement
12 under Penal Code § 853.6. The citation form indicates "wrong way" as the reason
13 for the stop, checks the "M" (misdemeanor) and "TF" (traffic) boxes, reflects that
14 there was no crash and no injury, and shows that the vehicle was towed and released
15 the next day after Petitioner promptly paid all towing and storage fees. See Exhibit
16 G.
17

18
19 The traffic case remains pending, but Petitioner has continued to reside at
20 the same address and to comply with every ICE and ISAP requirement since
21 receiving this citation, confirming that it does not reflect any danger to the
22 community or unwillingness to obey the law. Additionally, Petitioner's strong
23 community ties—including regular service and attendance at his local Gurdwara,
24 where he volunteers in the community kitchen and other religious service—further
25

1 confirm that he is not a danger to the community and is deeply embedded in lawful,
2 pro-social activities. *See* Exhibits L, M and N.

3 From December 4 to December 8, 2025, Petitioner was detained by ICE San
4 Bernardino Detention Center. Since December 8, 2025, Petitioner has been detained
5 at the Adelanto ICE Processing Center in Adelanto, California. *See* Exhibit H
6 (ICE's Online Detainee Locator System Search Result).

7
8 Petitioner was not provided with any hearing, notice, or opportunity to be
9 heard before being taken into custody.

10 Unlike *Matter of Sugay*, 17 I&N Dec. 637 (BIA 1981), where the BIA
11 allowed bond revocation upon "considerable change in circumstances," Petitioner
12 has no material changes in circumstances to justify his sudden arrest during a
13 routine ICE check-in appointment, which he attended voluntarily and consistently
14 for one year and ten months. Unlike the petitioner in *Sugay*, in this instant matter,
15 Petitioner has no material changes in circumstances that would justify this sudden
16 ICE detention. *Sugay* does not authorize revocation based solely on a belated legal
17 reinterpretation of the statute or a new internal policy untethered to any change in
18 the noncitizen's conduct, residence, or compliance.

19
20 Here, there has been no material change in Petitioner's circumstances that
21 would justify revoking his prior release. He continues to live at the same address
22 with his guardian, has complied with ISAP and all ICE reporting requirements, has
23 accrued additional positive equities through community and religious service,
24
25

1 evidencing an intent to comply rather than flee. *See* Exhibits I, J, M, N, and O.

2 The only adverse incident Respondents can point to is the pending CVC §
3 21651(b) wrong-way-driving charge arising from the May 11, 2025 citation, which
4 pre-dates his December 4, 2025 re-detention. The citation is being handled as a
5 traffic-related misdemeanor in state court, involves no crash, accident, or injury,
6 and has not resulted in any failure to appear, bench warrant, or additional
7 misconduct. A single, pending, non-injury driving misdemeanor that has been in
8 place for months and is proceeding through state court does not constitute the kind
9 of substantial, new change in risk that *Sugay* contemplated and cannot justify
10 revoking release or converting Petitioner into a mandatory detainee years after his
11 entry and nearly two years into successful community supervision.

12 The only genuine “change” is the government’s new classification of him as
13 a § 1225(b)(2) mandatory detainee under the July 2025 policy and *Yajure*, a shift
14 that conflicts with the INA and falls outside *Sugay*’s paradigm of changed factual
15 risk. Under *Sugay*’s own logic, the stability of Petitioner’s address, his pre-arranged
16 departure plans, his compliance history, and the absence of any new adverse
17 conduct beyond a pre-existing, pending misdemeanor traffic citation all cut strongly
18 against re-detention and underscore the need for an individualized bond assessment
19 rather than automatic custody.

20 Due process mandates that a bond hearing before a neutral adjudicator is
21 required prior to this unwarranted and prolonged deprivation of liberty, especially
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1 given his longstanding status and prior release. The Supreme Court has held that
2 adequate due process requires procedural safeguards proportional to the liberty
3 interest at stake. *Haygood v. Younger*, 769 F.2d 1350, 1355-56 (9th Cir. 1985) (en
4 banc), citing *Morrissey v. Brewer*, 408 U.S. 471, 481-82 (1972). This Court must
5 balance Petitioner's significant liberty interest against the government's interest in
6 efficient immigration administration to determine the process due. *Id.* at 1357; see
7 also *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

9 Under the *Mathews v. Eldridge* balancing test, the Court must consider: (1)
10 the private interest affected; (2) the risk of erroneous deprivation through current
11 procedures and the value of additional safeguards; and (3) the government's interest
12 including administrative burdens. *Haygood*, 769 F.2d at 1357 (citing *Mathews v.*
13 *Eldridge*, 424 U.S. 319, 335 (1976)).

15 The Supreme Court further instructs that the Constitution generally requires
16 a hearing before depriving a person of liberty or property, absent extraordinary
17 circumstances. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990). Only in a "special
18 case" where post-deprivation remedies are "the only remedies the State could be
19 expected to provide" can post-deprivation process satisfy the requirements of due
20 process. *Zinerman*, 494 U.S. at 985. Moreover, only where "one of the variables in
21 the *Mathews* equation, the value of predeprivation safeguards, is negligible in
22 preventing the kind of deprivation at issue" such that "the State cannot be required
23 constitutionally to do the impossible by providing predeprivation process," can the
24
25

1 government avoid providing pre-deprivation process. *Id.*

2 Because, under *Mathews v. Eldridge*, the provision of a pre-deprivation
3 hearing must balance the individual's significant liberty interest, specifically, his
4 freedom from prolonged detention, against the government's interest in detaining
5 individual pending removal. As such, the denial of a pre-deprivation hearing based
6 on jurisdictional technicalities, such as under *Matter of Hurtado*, violates due
7 process's individualized balancing requirement.
8

9 Here, the Petitioner's private interest in release is heightened by his
10 compliance efforts by regularly and timely appearing for his ICE check-ins as well
11 as his ongoing efforts to obtain lawful status, such as a pending I-360 SIJS petition
12 and I-589 asylum application. His strong community ties are evidenced by his
13 residence with his legal guardian, Ms. Manjit Kaur, and his cousins. Moreover, his
14 moral character is demonstrated through his active religious life; he is a regular
15

16 [REDACTED]
17 [REDACTED]. See Exhibits L, M and N.
18

19 Applying the *Mathews* test, the risk of erroneous deprivation without a TRO
20 or bond hearing is substantial, given the significant liberty and family interests at
21 stake. The value of procedural safeguards to prevent this harm is therefore high.
22 Conversely, the government's interest in detention pending final order of his
23 immigration proceedings, including administrative burdens, is limited and does not
24 outweigh Petitioner's interests.
25

1 Accordingly, the heightened private interests weigh strongly in favor of
2 Petitioner's immediate release or, at minimum, an individualized bond hearing that
3 carefully evaluates these circumstances before any continued detention is imposed.
4 Under current BIA interpretations, there is no administrative mechanism for
5 Petitioner to request a bond hearing from an IJ because such a request will be
6 necessarily be denied.
7

8 **B. Petitioner Will Suffer Irreparable Harm in the Absence of a TRO.**

9 In the absence of a TRO, Petitioner will continue to be unlawfully detained
10 by Respondents pursuant to §1225(b)(2) and denied a bond hearing before an IJ.
11 Petitioner has now been detained without a bond hearing since December 4, 2025.
12

13 “Freedom from imprisonment, from government custody, detention, or other
14 forms of physical restraint, lies at the heart of the liberty” that the Due Process
15 Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention constitutes
16 “a loss of liberty that is ... irreparable.” *Moreno Galvez v. Cuccinelli*, 492 F. Supp.
17 3d 1169, 1181 (W.D. Wash. 2020) (*Moreno II*), aff'd in part, vacated in part on
18 other grounds, remanded sub nom. *Moreno Galvez v. Jaddou*, 52 F.4th 821 (9th Cir.
19 2022). It “is well established that the deprivation of constitutional rights
20 unquestionably constitutes irreparable injury.” *Melendres v. Arpaio*, 695 F.3d 990,
21 1002 (9th Cir. 2012) (citation modified); *Warsoldier v. Woodford*, 418 F.3d 989,
22 1001-02 (9th Cir. 2005). *See also Hernandez v. Sessions*, 872 F.3d 976, 994-95 (9th
23 Cir. 2017) (“Thus, it follows inexorably from our conclusion that the government’s
24
25

1 current policies [which fail to consider financial ability to pay immigration bonds]
2 are likely unconstitutional – and thus that members of the plaintiff class will likely
3 be deprived of their physical liberty unconstitutionally in the absence of the
4 injunction – that Plaintiffs have also carried their burden as to irreparable harm.”)

5
6 Petitioner has significant family ties in the United States, specifically with
7 his legal guardian and paternal aunt, Manjit Kaur, a lawful permanent resident who
8 regards Petitioner not merely as a nephew, but as a son. Petitioner’s presence in
9 Ms. Kaur’s home is essential; he is described as extremely helpful and cooperative,
10 assisting his guardian with household activities without hesitation and providing
11 her with necessary emotional support. The separation caused by his detention has
12 left a void in his guardian’s home and life, disrupting the family unit that was
13 established to provide him the safety he was denied in his home country. *See*
14 Exhibit I. Petitioner’s strong family and community ties—documented by letters
15 and declarations from [REDACTED], with proof of their lawful
16 status—further underscore that he is deeply rooted in San Bernardino, not a danger
17 or flight risk, and that his detention is tearing apart a stable, supportive
18 environment. *See Id. See also* Exhibits L, M and N.
19
20

21 Without a TRO, Petitioner faces severe and irreparable psychological and
22 physical harm due to "re-traumatization" by government officials. Petitioner fled
23 India to escape a history of violence, where he was beaten and verbally abused by
24 his father and targeted by political groups. Since his detention on December 4,
25

1 2025, Petitioner has reported being punched and kicked by an ICE officer, a
2 physical assault that mirrors the abuses he endured before he fled India, leaving
3 him feeling helpless, terrified, and suffering from severe emotional distress. This
4 trauma is exacerbated by the conditions of his confinement; Petitioner is currently
5 held in a dirty, overcrowded facility where constant bright lights and noise make
6 sleep impossible, causing him exhaustion and extreme nervousness. *See Id.*

8 Beyond the direct harm to Petitioner, his continued detention inflicts
9 substantial non-compensable harm regarding the health and welfare of his legal
10 guardian. Ms. Kaur relies on Petitioner for emotional support, and his absence—
11 coupled with the knowledge of his mistreatment—has caused her mental and
12 physical health to deteriorate rapidly. She is currently living in a state of constant
13 panic and anxiety, suffering from sleeplessness and the debilitating fear that she
14 has failed to protect the child she rescued from his abusive home in India. *See Id.*

16 The deprivation of Petitioner's liberty acts as a punishment against a
17 compliant individual who has consistently followed immigration laws and attended
18 every scheduled ICE appointment. Accordingly, the issuance of a TRO is
19 necessary to prevent continuing physical and emotional injury to Petitioner and to
20 halt the deterioration of his legal guardian's mental health.

22 //

23 //

24 //

C. The Balance of Equities Tips in Petitioner's Favor and a TRO is in the Public Interest.

Because the government is a party, these two factors are considered together. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Petitioner has established that the public interest factor weighs in his favor because his claims assert that the new policy has violated federal laws. *See Valle del Sol Inc. v. Whitting*, 732 F.3d 1006, 1029 (9th Cir. 2013). Because the policy preventing Petitioner from obtaining bond “is inconsistent with federal law, ... the balance of hardships and public interest factors weigh in favor of a preliminary injunction.” *Moreno Galvez v. Cuccinelli*, 387 F. Supp. 3d 1208, 1218 (W.D. Wash. 2019) (*Moreno I*); *see also Moreno Galvez*, 52 F.4th 821, 832 (9th Cir. 2022) (affirming in part permanent injunction issued in *Moreno II* and quoting approvingly district judge’s declaration that “it is clear that neither equity nor the public’s interest are furthered by allowing violations of federal law to continue”). This is because “it would not be equitable or in the public’s interest to allow the [government] ... to violate the requirements of federal law, especially when there are no adequate remedies available.” *Valle de Sol Inc. v. Whitting*, 732 F.3d 1006, 1029 (9th Cir. 2013) (second alteration in original) (citation omitted). Indeed, Respondents “cannot suffer harm from an injunction that merely ends an unlawful practice.” *Rodriguez v. Robbins*, 715 F.3d 1127, 1145 (9th Cir. 2013).

1 Moreover, Petitioner's detention is unjustified while his I-360 Application
2 pending before the USCIS and his I-589 application remains pending before the
3 immigration court, as there has been no decision or action by the government to
4 resolve his case. The absence of rulings from the USCIS and immigration court
5 means that Petitioner's immigration status has not changed, and he continues to
6 have pending claims for protection that remain legally viable. Detaining Petitioner
7 during this period, without any movement in his case or adjudicatory determination,
8 serves no legitimate purpose and imposes unnecessary hardship while his
9 applications remain unresolved.
10

11 **D. Prudential Exhaustion is Not Required.**
12

13 Prudential exhaustion does not require Petitioner to endure irreparable harm
14 by being forced to exhaust an administrative remedy that does not exist. Where no
15 bond hearing has been afforded at all, ties to the community, compliance history,
16 and/or lack of dangerousness, exhaustion is impossible and therefore excused. As
17 recognized in *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004), exceptions to
18 the exhaustion requirement include situations where administrative remedies are
19 inadequate or not efficacious, or where irreparable injury would result from
20 requiring exhaustion.
21

22 In addition, a court may waive an exhaustion requirement when "requiring
23 resort to the administrative remedy may occasion undue prejudice to subsequent
24 assertion of a court action." *McCarthy v. Madigan*, 503 U.S. 140, 146-47 (1992),
25

1 *superseded by statute on other grounds as stated in Booth v. Churner, 532 U.S. 731,*
2 *739-41* (2001). “Such prejudice may result ... from an unreasonable or indefinite
3 time frame for administrative action.” *Id.* at 147 (citing cases). Here, the exceptions
4 regarding irreparable injury and agency delay apply and warrant waiving any
5 prudential exhaustion requirement.
6

7 1. Futility

8 Futility is an exception to the prudential exhaustion requirement. Petitioner
9 has been subjected to the new DHS policy issued on July 8, 2025 instructing all
10 ICE employees to consider anyone arrested within the United States and charged
11 with being inadmissible under §1182(a)(6)(A)(i) to be an “applicant for admission”
12 under §1225(b)(2)(A) and subject to mandatory detention. The DHS policy states it
13 was issued “in coordination with the Department of Justice (DOJ).” *See* Exhibit O.
14 IJs function within the Executive Office for Immigration Review which is a
15 component of the DOJ.
16

17 Further, the most recent published BIA decision on this issue, i.e., *Matter of*
18 *Hurtado*, held that persons like Petitioner are subject to mandatory detention as
19 applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR
20 and the Attorney General are defendants, DOJ has affirmed its position that
21 individuals like Petitioner are applicants for admission and subject to detention
22 under §1225(b)(2)(A). *See* Mot. To Dismiss, *Rodriguez Vazquez v. Bostock*, No.
23 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27-31. Under these
24
25

1 facts, appeals to the BIA would be futile.

2 2. Irreparable Injury

3 Irreparable injury is an exception to any prudential exhaustion requirement.
4 Because Petitioner is denied parole/bond and ordered mandatorily detained, each
5 day he remains in detention is one in which his statutory and constitutional rights
6 have been violated. Similarly situated district courts have repeatedly recognized this
7 fact. As one court has explained, “because of delays inherent in the administrative
8 process, BIA review would result in the very harm that the bond hearing was
9 designed to prevent: prolonged detention without due process.” *Hechavarria v.*
10 *Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (internal quotation marks
11 omitted). Indeed, “if Petitioner is correct on the merits of his habeas petition, then
12 Petitioner has already been unlawfully deprived of a [lawful] bond hearing[,] [and]
13 ... each additional day that Petitioner is detained without a [lawful] bond hearing
14 would cause him harm that cannot be repaired.” *Villalta v. Sessions*, No. 17-CV-
15 05390-LHK, 2017 WL 4355182, at *3 (N.D. Cal. Oct. 2, 2017) (internal quotation
16 marks and brackets omitted); *see also Cortez v. Sessions*, 318 F. Supp. 3d 1134,
17 1139 (N.D. Cal. 2018) (similar). Other district courts have echoed these points. *See,*
18 *e.g., Perez v. Wolf*, 445 F. Supp. 3d 275, 286 (N.D. Cal. 2020); *Blandon v. Barr*,
19 434 F. Supp. 3d 30, 37 (W.D.N.Y. 2020); *Marroquin Ambriz v. Barr*, 420 F. Supp.
20 3d 953, 961 (N.D. Cal. 2019); *Ortega-Rangel v. Session*, 313 F. Supp. 3d 993, 1003-
21 04 (N.D. Cal. 2018); *Montoya Echeverria v. Barr*, No. 20-CV-02917-JSC, 2020
22
23
24
25

1 WL 2759731, at *6 (N.D. Cal. May 27, 2020); *Rodriguez Diaz v. Barr*, No. 4:20-
2 CV-01806-YGR, 2020 WL 1984301, at *5 (N.D. Cal. Apr. 27, 2020); *Birru v. Barr*,
3 No. 20-CV-01285-LHK, 2020 WL 1905581, at *4 (N.D. Cal. Apr. 17, 2020); *Lopez*
4 *Reyes v. Bonnar*, No. 18-CV-07429-SK, 2018 WL 7474861, at *7 (N.D. Cal. Dec.
5 24, 2018).

6
7 Petitioner asserts both statutory and constitutional claims and has a
8 “fundamental” interest in a bond hearing, as “freedom from imprisonment is at the
9 ‘core of the liberty protected by the Due Process Clause.’” *Hernandez*, 872 F.3d at
10 993 (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80) (1992)).

11
12 Moreover, the irreparable injury Petitioner faces extends beyond a chance at
13 physical liberty. These are several “irreparable harms imposed on anyone subject
14 to immigration detention[.]” *Hernandez*, 872 F.3d at 995. These include “subpar
15 medical and psychiatric care in ICE detention facilities.” *Id.*

16 3. Agency Delay

17
18 Third, BIA’s delays in adjudicating bond appeals warrant excusing any
19 exhaustion requirement. A court’s ability to waive exhaustion based on delay is
20 especially broad here given the interests at stake. As the 9th Circuit has explained,
21 Supreme Court precedent “permits a court under certain prescribed circumstances
22 to excuse exhaustion where ‘a claimant’s interest in having a particular issue
23 resolved promptly is so great that deference to the agency’s judgment [of a lack of
24 finality] is inappropriate.’” *Klein v. Sullivan*, 978 S.2d 520, 523 (9th Cir. 1992)

1 (alteration in original) (quoting *Mathews v. Eldrige*, 424 U.S. 319, 330 (1976)).
2 Surely, as noted above, Petitioner's interest here in physical liberty is a
3 "fundamental" one. *Hernandez*, 872 F.3d at 993. Moreover, the Supreme Court has
4 explained that "[r]elief [when seeking review of detention] must be speedy if it is
5 to be effective." *Stack v. Boyle*, 342 U.S. 1, 4 (1951).
6

7 Despite this fundamental interest and the Supreme Court's admonition that
8 only speedy relief is meaningful, BIA takes over half a year in most cases to
9 adjudicate an appeal of a decision denying bond. In these cases, noncitizens in
10 removal proceedings often remain locked up in a detention facility with conditions
11 "similar ... to those in many prisons and jails" and separated from family."
12 *Rodriguez*, 583 U.S. at 329 (Breyer, J., dissenting); *see also, e.g., Hernandez*, 872
13 F.3d at 996.
14

15 District courts facing situations similar to the one at issue here acknowledged
16 that the BIA's months-long review is unreasonable and results in ongoing injury to
17 the detained individual. *See, e.g., Perez*, 445 F. Supp. 3d at 286.
18

19 Indeed, as one district judge observed, "the vast majority of ... cases ... have
20 'waived exhaustion ... where several additional months may pass before the BIA
21 renders a decision on appending appeal [of a custody order]." *Montoya Echeverria*,
22 2020 WL 2759731, at *6 (quoting *Rodriguez Diaz*, 2020 WL 1984301, at *5); *see*
23 *also Hechavarria*, 358 F. Supp. 3d at 237-38 (citing *McCarthy* and BIA delays as
24 reason to waive prudential exhaustion requirement).
25

IV. CONCLUSION

For these reasons, the Court should grant Petitioner's Application for a Temporary Restraining Order and Order to Show Cause, hold that § 1226(a) governs his detention, and order his immediate release to his established address (subject to appropriate conditions of supervision) or, at a minimum, a prompt bond hearing before a neutral adjudicator.

DATED: December 16, 2025

Respectfully Submitted

/s/Gita B. Kapur

Gita B. Kapur

Attorney for Petitioner

CERTIFICATE OF COMPLIANCE

The undersigned, counsel of record for Petitioner, certifies that this brief
contains 7, 816 words, which complies with the word limit of L.R. 11-6.1.

Dated: December 16, 2025

/s/Gita B. Kapur
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11 UNITED STATES DISTRICT COURT
12 FOR THE CENTRAL DISTRICT OF CALIFORNIA

13 LOVEJEET SINGH,

14 Petitioner,

15 v.

16 Ernesto SANTACRUZ JR., Acting
17 Director, Los Angeles Field Office,
18 Immigration and Customs Enforcement,
19 Enforcement and Removal Operations;
20 Todd LYONS, Acting Director,
21 Immigration and Customs Enforcement;
22 Kristi NOEM, Secretary, U.S. Department
23 of Homeland Security; U.S.
24 DEPARTMENT OF HOMELAND
25 SECURITY; Pamela BONDI, U.S.
Attorney General; Fereti SEMAIA,
Warden of Adelanto Ice Processing
Center,

Respondents.

Case No.

**PETITIONER'S EXHIBITS
IN SUPPORT OF
APPLICATION FOR
TEMPORARY
RESTRAINING ORDER
AND ORDER TO SHOW
CAUSE**

PETITIONER'S DHS NO:

A 

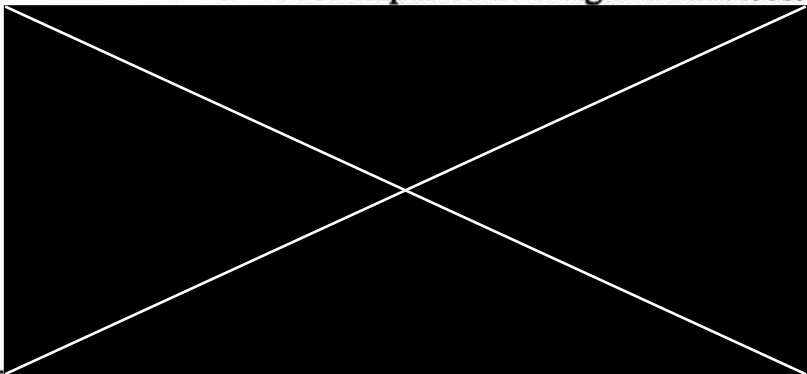
UNITED STATES DISTRICT COURT
Central District of California

Lovejeet Singh vs. Ernesto Santacruz Jr., Acting Director, Los Angeles Field Office, Immigration and Customs Enforcement, Enforcement and Removal Operations, et al.

**Petitioner's Application for Temporary Restraining Order
and Order to Show Cause**

EXHIBIT LIST

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C	Notice of Custody Determination and Order of Release on Recognizance (stating release "[i]n accordance with section 236 of the INA," i.e., 8 U.S.C. § 1226)	9-10
D	Notice of In-Person Hearing on I-589 Application for Asylum, Withholding of Removal, and Convention Against Torture; Immigration Court scheduled hearing date October 14, 2026.	11-12
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14 Immigration and Customs Enforcement,
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15 Todd LYONS, Acting Director,
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16 Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
17 DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S.
18 Attorney General; Fereti SEMAIA,
19 Warden of Adelanto Ice Processing
Center,

20 Respondents-Defendants.
21
22

Case No.

[PROPOSED] ORDER

1 Upon consideration of the Ex Parte Application and supporting papers filed by
2 Petitioner, Henrique Javier Mejia-Pacheco, and good cause appearing, IT IS
3 HEREBY ORDERED THAT:

4 _____ The application for a Temporary Restraining Order is GRANTED.

5 _____ Respondents, including all their officers, agents, servants, employees,
6 successors, and all persons acting in concert or participation with them, are
7 restrained and enjoined from continuing to detain the Petitioner in immigration
8 custody.
9

10 _____ Respondents are directed to immediately release Petitioner from
11 immigration custody or provide Petitioner with an individualized bond hearing
12 before an immigration judge under 8 U.S.C. §1226(a), within seven (7) days of the
13 issuance of TRO.

14 _____ If the Respondents seek to re-detain Petitioner, Respondents shall provide
15 Petitioner with no less than seven (7) days' advance notice and must conduct a
16 pre-deprivation bond hearing before a neutral decisionmaker pursuant to 8 U.S.C.
17 §1226(a) and its implementing regulations.

18 _____ Respondents are enjoined from transferring, relocating, or removing
19 Petitioner from the Central District of California without further order of the Court
20 and pending final resolution of this litigation.
21
22

1 _____ This Temporary Restraining Order shall remain in effect until further order
2 of this Court.
3

4 _____ Petitioner shall serve this order on Respondents forthwith.
5

6 IT IS SO ORDERED.
7

8 Dated: _____
9

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Unite _____