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**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

MEHAK MEHAK

Petitioner,

v.

Case No. 3:26-00024

MARY DE ANDA-YBARRA;

In her official capacity as the El Paso
Field Office Director, U.S. Immigration
& Customs Enforcement

KRISTI NOEM,

In her official capacity as Secretary, U.S.
Department of Homeland Security;

TODD M. LYONS,

In his official capacity as Acting Director
Of Immigration & Customs Enforcement;
and,

PAMELA BONDI,

In her official capacity as Attorney General,
U.S. Department of Justice,

Respondents.

**PETITION FOR WRIT OF
HABEAS CORPUS PURUANT
TO 28 U.S.C. § 2241**

INTRODUCTION

Petitioner, Mehak Mehak (“Ms. Mehak”, “Petitioner”), is a 22-year-old woman from India who petitions for a writ of habeas corpus under 8 U.S.C. § 2241, challenging the lawfulness of her detention by the Immigration and Customs Enforcement (“ICE”). On December 08, 2025, ICE detained Ms. Mehak at 26 Federal Plaza, New York, NY 10278, ICE field office without an individualized assessment that she posed a flight risk or a danger to the community and, therefore, without due process. She therefore seeks immediate release from custody.

STATEMENT OF FACTS

1. Ms. Mehak entered the U.S. on September 10, 2024, at or near San Diego, CA.
2. Ms. Mehak applied for asylum and withholding of removal with the New York Immigration Court. The application is under review by the New York Immigration Court and is currently pending. Ms. Mehak has an employment authorization document and a valid state ID.
3. Upon her entry into the United States, Ms. Mehak was detained by U.S. Immigration and Customs Enforcement (“ICE”) and subsequently released on her own recognizance, with instructions to comply with periodic ICE check-in requirements. On December 8, 2025, Ms. Mehak appeared in compliance with her scheduled ICE check-in appointment at 26 Federal Plaza in New York City. Ms. Mehak appeared in good faith and in full compliance with ICE’s reporting requirements, despite being aware of the risk associated with in-person reporting. However, Ms. Mehak did not want to violate ICE directive and put her stay in the U.S. in jeopardy. As soon as Ms. Mehak went before the ICE officer, she was informed of her detention without any explanation.
4. Upon information and belief, ICE has detained Ms. Mehak at ERO El Paso Camp East Montana, 6920 Digital Road, El Paso, TX 79936.

5. Upon information and belief, ICE has detained Ms. Mehak pursuant to ICE policy that began on or about May 20, 2025, directing agents, and granting them power under the One Big Beautiful Bill (“OB BB”) to detain individuals at ICE check-in appointments or immigration courts, or upon general inquiry, without an individualized assessment of an individual’s flight risk, dangerousness, or moral character.

PARTIES

6. Petitioner Mehak Mehak is an Indian national who resided at 108-17 101 Avenue, South Richmond Hill, NY 11419 prior to her ICE detention.

7. Respondent Mary De Anda-Ybarra is the ICE El Paso Acting Field Office Director. She is responsible for carrying out ICE’s immigration detention operations across El Paso area. Respondent Anda-Ybarra is a legal custodian of Ms. Mehak. She is sued in her official capacity.

8. Respondent Kristi Noem is named in her official capacity as the Secretary of DHS. In this capacity she is responsible for the administration of the immigration laws pursuant to Section 402 of the Homeland Security Act of 2002. 107 Pub. L. 296 (November 25, 2003); *see also* 8 U.S.C. § 1103(a); routinely transacts business in the District of New York; where Ms. Mehak was arrested, as also El Paso, TX where she is currently detained, and is legally responsible for Ms. Mehak’s incarceration and removal. She is therefore a custodian of Ms. Mehak. Respondent Noem’s office is located at DHS headquarters in Washington, DC, 20528.

9. Respondent Todd M. Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to detaining and removing certain noncitizens. Director Lyons is a legal custodian of Ms. Mehak and is sued in his official capacity.

10. Respondent Pamela Bondi is named in his official capacity as the Attorney General of the United States. She is responsible for the administration of the immigration laws as exercised

by EOIR, pursuant to 8 U.S.C. § 1103(g). She routinely transacts business in the Western District of Texas and is legally responsible for administering Ms. Mehak's removal proceedings as well as the procedural standards used in those proceedings. She is therefore a legal custodian of Ms. Mehak. Respondent Bondi's office is at DHS of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530.

JURISDICTION AND VENUE

11. Respondents incarcerated Ms. Mehak on December 08, 2025, in New York and she is under the direct control of the Respondents and their agents.

12. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA").

13. Federal Courts have subject matter jurisdiction under 28 U.S.C. § 2441(c)(1) and (c)(3) (habeas corpus) to determine whether people imprisoned in federal custody are held in violation of law. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001).

14. Jurisdiction is proper pursuant to 28 U.S.C. § 1331 (federal question); 5 U.S.C. § 702 (waiver of sovereign immunity); 28 U.S.C. § 1346 (original jurisdiction); Article I, § 9, clause 2 of the U.S. Constitution (Suspension Clause); the All Writs Act, 28 U.S.C. § 1651; and 28 U.S.C. §§ 2201-2202 (Declaratory Judgment Act).

15. Further, the Court has jurisdiction to grant injunctive relief pursuant to the Declaratory Judgment Act, 28 U.S.C. §§ 2201—02, 1651, 2241, and the All Writs Act, 28 U.S.C. § 1651. Ms. Mehak's detention constitutes a "severe restraint[]" on her individual liberty" interest such that Ms. Mehak is "subject to restraints not shared by public generally" and "in custody in violation of the . . . laws . . . of the United States." *Hensley v. Municipal Court*, 411 U.S. 345 (1973)

16. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness of their detention by DHS. *Jennings v. Rodriguez*, 583 U.S. 281, 292—95 (2018); *Denmore v. Kim*, 538 U.S. 510, 516—17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

17. Venue properly lies in the Western District of Texas, El Paso Division because Ms. Mehak is confined in El Paso County, Texas, within this District and Division. 28 U.S.C. §§ 1391(b)(2), (e). This petition is filed while Ms. Mehak is physically present within the district, as, upon information and belief, she is incarcerated in El Paso, TX.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. Exhaustion is not necessary because Congress did not codify a requirement that petitioners seeking a writ of habeas corpus exhaust administrative remedies. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) (“Where Congress specifically mandates, exhaustion is required... But where Congress has not clearly required exhaustion, sound judicial discretion governs.”) (citation omitted).

19. Further, exhaustion of remedies is unnecessary if futile. Here, exhaustion would be futile because Ms. Mehak was detained pursuant to an ICE policy that is defined by its systematic denial of the very administrative remedy. Respondents will likely assert that Petitioner must seek a bond hearing before the Immigration Court and that, in any event, Immigration Judges lack jurisdiction to grant bond to noncitizens in Petitioner’s posture. That argument fails as a matter of Fifth Circuit and Supreme Court law. Federal district courts retain habeas jurisdiction under 28 U.S.C. § 2241 to review the legality and constitutionality of immigration detention, including detention imposed without an individualized custody determination. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 300–01 (2018).

20. The Fifth Circuit has made clear that exhaustion or channeling arguments do not bar habeas review where the petitioner challenges the authority to detain or the constitutional adequacy of detention procedures themselves. *Pierre v. United States*, 525 F.2d 933, 935 (5th Cir. 1976). District courts within the Fifth Circuit have repeatedly exercised habeas jurisdiction to remedy detention imposed without an individualized assessment of flight risk or danger, even where DHS contends that the Immigration Court lacks bond jurisdiction or that bond relief is unavailable. Where detention is categorical, prolonged, or imposed without due process safeguards, habeas relief—rather than deferral to an unavailable or illusory bond process—is the proper remedy.

21. Accordingly, Respondents’ anticipated reliance on the Immigration Court bond framework cannot strip this Court of jurisdiction or cure the constitutional defects in Petitioner’s detention.

22. Such hearings are provided for the purpose of custody redetermination—a hearing held by an immigration judge after ICE makes its initial decision to detain. 8 C.F.R. § 236.1(d). Such a hearing is no substitute for the requirement that ICE engage in a “deliberative process prior to, or contemporaneous with,” the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause.

23. Finally, even if meaningful administrative remedies were promptly available, Ms. Mehak, as a noncitizen challenging the lawfulness of her ongoing immigration detention, is not required to exhaust those remedies under 8 U.S.C. § 2241. *Goonsuwan v. Ashcroft*, 252 F.3d 383, 390 (5th Cir. 2001).

ARGUMENT

24. Ms. Mehak's detention violates her Fifth Amendment right to due process because ICE detained her without notice, an opportunity to respond, or an individualized determination that she poses a flight risk or a danger to the community. Moreover, ICE acted in ill faith and misapplied laws and fact despite knowing the whole picture.

25. The Fifth Amendment's Due Process Clause applies to all "persons" within the United States, including noncitizens, regardless of immigration status. The Fifth Circuit has long recognized that noncitizens—whether lawfully or unlawfully present—are entitled to due process protections when deprived of liberty by the federal government. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Pierre* at 933, 935 (5th Cir. 1976). Noncitizens may invoke habeas corpus under 28 U.S.C. § 2241 to challenge the legality and constitutionality of their detention, including whether detention was lawful at the time it was first imposed. *Zadvydas*, 533 U.S. at 687; *Goonsuwan* at 389-390 (5th Cir. 2001).

26. In evaluating whether the process afforded to a civil immigration detainee satisfies the Fifth Amendment, courts apply the three-factor balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). The Supreme Court has repeatedly applied *Mathews* to immigration detention and removal-related due process claims, and the Fifth Circuit follows this framework when assessing whether civil immigration detention comports with constitutional requirements. See *Zadvydas v. Davis*, 533 U.S. 678, 690–92 (2001) (evaluating immigration detention under due process principles); *Demore v. Kim*, 538 U.S. 510, 523 (2003) (recognizing that civil immigration detention is subject to constitutional due process limits); *Pierre v. United States*, 525 F.2d 933, 935 (5th Cir. 1976) (recognizing habeas review of the legality of immigration detention). Under this

framework, due process requires that the nature and duration of civil immigration detention bear a reasonable relationship to the governmental purposes justifying confinement.

27. Ms. Mehak does not contend that greater “judicial-type procedures must be imposed upon [the] administrative action[s]” of ICE than those already required by law; instead, the agency must comply with the procedures already in place, and its failure to do so amounts to a complete and arbitrary denial of due process. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954) (en banc) (“An agency’s failure to follow its own regulations is a classic due process violation.”)

28. More specifically, if ICE wishes to detain a noncitizen under the detention authority vested under 8 U.S.C. § 1226(a), ICE must allow meaningful opportunity to the noncitizen to “demonstrate to the satisfaction of the officer that [] release would not pose danger to property and persons [,] and that the [noncitizen] is likely to appear for any future proceeding. 8 C.F.R. §§1236.1(c)(8), 236.1(c)(8). Typically, the Board of Immigration Appeals, or Circuit Courts cannot circumvent a noncitizen’s due process rights, and the authority provided by the Immigration and Nationality Act (“INA”) to interpret that a noncitizen can be detained for no cause, without presentation of a warrant or official charge of violation under the INA, and without an opportunity afforded to the noncitizen to present his case diligently and to his benefit.

29. ICE’s policy, and the following precedents by the BIA have severely restrained the immigration courts and stripped them off their power to grant a discretionary bond determination where an Immigration Judge deems appropriate. In practice, two most recent BIA precedents take away the immigration court’s discretionary power to grant discretionary bonds to all noncitizens but for few exceptions as put in place by *Matter of Q-Li*, 29 I&N Dec. 66 (BIA 2025), and *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). On December

18, 2025, the U.S. District Court for the Central District of California entered final judgment in *Lazaro Maldonado Bautista et al. v. Kristi Noem, et al.*, No. 5:25-cv-01873-SSS-BFM, holding that noncitizens who entered without inspection and are not subject to mandatory detention are detained under INA § 236(a), not § 1225(b)(2), and are entitled to bond consideration and a custody redetermination hearing before an Immigration Judge. The court further vacated DHS's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" as unlawful. That ruling applies nationwide to similarly situated individuals, including Respondent. *Lazaro Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). The Final Judgment further placed a nationwide injunction on DHS and its agencies, including Immigration Courts against denying bond opportunity on grounds of lacking jurisdiction. Upon information and belief, despite this *nationwide* injunction, the Government continues to contend that those similarly situated as Petitioner are ineligible for bond, and declines the adoption of the judgment as a binding authority.

30. In the specific instance, Ms. Mehak was detained by ICE pursuant to an ICE policy memorandum circulated, granting overbroad powers to ICE to detain noncitizens without individualized screening, assessment, or notice to be heard. In fact, the record shows that Ms. Mehak was summoned to appear in-person for an ICE check-in, which she had complied with for 2 years, only with an intent to arrest her and place her in ICE custody.

31. Up until now, since Ms. Mehak's arrest, ICE and DHS have provided no reasonable cause for her continued detention. Courts within this Circuit have long recognized that the Government's authority to detain non-citizens is constitutionally limited by due process. *Zadvydas*, 533 U.S. at 690; *Pierre*, 525 F.2d at 935. Under this binding authority, prolonged immigration detention becomes unreasonable and unconstitutional once it extends beyond the "brief" period

Congress envisioned absent an individualized hearing at which the Government bears the burden to justify continued confinement. Detention imposed or reinstated without any deliberative process prior to, or contemporaneous with, the deprivation of liberty fails constitutional scrutiny because it creates an unacceptably high risk of erroneous deprivation and does not reasonably relate to the government's asserted civil purposes. Where, as here, DHS previously authorized liberty and later stripped that liberty without an individualized justification or procedural assessment, the absence of any pre-deprivation or contemporaneous process violates due process under *Mathews*.

CAUSE OF ACTION

COUNT I

PROCEDURAL DUE PROCESS VIOLATION UNDER FIFTH AMENDMENT

32. ICE's arrest and detention of Petitioner at a routine check-in, without any predetermination hearing or individualized determination, violated the procedural due process protections of the Fifth Amendment.

33. Under the *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing test—applied repeatedly by the Third Circuit—Petitioner's strong liberty interest, the minimal risk of flight, and the Government's ability to provide notice and hearing make the absence of process unconstitutional.

34. Courts in this Circuit have found similar abrupt detentions unlawful. See *Lopez-Arevelo v. Ripa*, No. 3:25-cv-337-KC, 2025 WL 2691828, at *1–13 (W.D. Tex. Sept. 22, 2025); *Lala Barros v. Noem*, No. 3:25-cv-488-KC, 2025 WL 3154059, at *1–6 (W.D. Tex. Nov. 10, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-443-KC, 2025 WL 3038262, at *1–5 (W.D. Tex. Oct. 30, 2025); *Martinez v. Noem*, No. 3:25-cv-430-KC, 2025 WL 2965859, at *1–5 (W.D. Tex. Oct.

21, 2025); *Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588, at *1–14 (W.D. Tex. Oct. 2, 2025); *Lopez-Arevelo*, 2025 WL 2691828, at *1–13.

COUNT II

SUBSTANTIAL DUE PROCESS VIOLATION UNDER THE FIFTH AMENDMENT

35. The Fifth Amendment also prohibits arbitrary or conscience-shocking government conduct. Detaining a fully compliant, non-dangerous asylum seeker without cause after years of cooperation is arbitrary, irrational, and unconstitutional.

COUNT III

UNREASONABLE DETENTION UNDER 8 U.S.C. § 1226(A)

36. Civil immigration detention within the Fifth Circuit is constitutionally constrained and may not become arbitrary or excessive in relation to its purpose. *Zadvydas*, 533 U.S. 678, 690–92 (2001). ICE’s re-detention of Petitioner—after prolonged compliance and without any individualized risk determination—exceeds those limits and violates 8 U.S.C. § 1226(a). *Pierre v. United States*, 525 F.2d 933, 935 (5th Cir. 1976).

37. ICE’s re-detention of Petitioner—after years of compliance and without a risk determination—exceeds those constitutional limits and violates § 1226(a).

PRAYER FOR RELIEF

WHEREFORE, Ms. Mehak prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Enjoin Respondents from transferring Ms. Mehak outside of the jurisdiction of this District Court;
3. Issue a writ of habeas corpus compelling and directing the Respondents to effectuate release of the Petitioner from detention within 14 days;

4. Award the Petitioner attorneys' fees and costs under the Equal Access to Justice Act ("EAJA") as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, or any other basis such justified under law; and
5. Grant any other and further relief that this Court deems just and proper.

Dated: January 8, 2026

Respectfully submitted,

/s/ Dalbir Singh

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CERTIFICATE OF SERVICE

I hereby certify that on this 8th day of January 2025, I served a true and correct copy of the foregoing **Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241** on all Respondents by delivering it via CM/ECF and causing a true copy of the document by mail to the U.S. Attorney's Office, El Paso, TX.

/s/ Dalbir Singh

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