**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF COLORADO**

**AMRIT PAL**
**Petitioner,**
**v.**

**TODD LYONS, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement;**

**Robert HAGAN, Field Office Director, Denver Field Office, Immigration and Customs Enforcement, in his official capacity; and**

**Juan BALTAZAR, in his official capacity as Warden of the Denver Contract Detention Facility,**

**Respondents..**

**Civil Action No.**

**File No.**

**EMERGENCY VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND INCORPORATED MEMORANDUM OF LAW**

## PRELIMINARY STATEMENT

1. Petitioner, Amrit Pal, is an asylum seeker from India who arrived in the United States on or about May 26, 2022. *See* Ex. A, Notice to Appear.

2. Shortly after his entry, Petitioner was encountered and apprehended by immigration authorities and briefly detained by U.S. Immigration and Customs Enforcement (ICE). Petitioner was released from ICE custody on June 10, 2022, after posting an immigration bond. *See* Ex. B

3. In his Notice to Appear (NTA), Respondents classified Petitioner as a noncitizen 'present in the United States who [has] not been admitted or paroled,' rather than an 'arriving alien.'

4. On August 27, 2025, the Petitioner attended a social gathering at a friend's residence. During the evening, the Petitioner consumed alcohol. At some point later that night, the Petitioner returned to his residence to retrieve personal belongings. Shortly thereafter, the Petitioner began to feel seriously ill and experienced a high fever. Concerned about his condition, friends transported him to a hospital so that he could receive medical attention. Following this incident, the Petitioner had contact with local authorities and received minor alcohol-related citations.

5. On or about August 29, 2025, officers of U.S. Immigration and Customs Enforcement ("ICE") arrested the Petitioner pursuant to an administrative warrant issued in connection with immigration proceedings.

6. On August 30, 2025, the Department of Homeland Security issued a Notice of Custody Determination ordering that the Petitioner remain detained pending further immigration proceedings.

7. He is currently detained at the Delaney Hall Detention Facility located in Denver Contract Detention Facility in Aurora, Colorado.

8. Despite longstanding practice and clear statutory language, both DHS and the Department of Justice ("DOJ") now insist that all persons who entered without inspection are detained pursuant to 8 U.S.C. § 1225(b)(2) and therefore subject to mandatory detention. This misclassification is contrary to

almost 30 years of settled law and practice, and it is unlawfully premised solely upon the manner in which a person initially entered the country.

9. Petitioner respectfully requests that this Court order Respondents to show cause why this Petition should not be granted within three days. *See* 28 U.S.C. § 2243.

**THE PARTIES**

10. Petitioner, Amrit Pal, is a 32-year-old Indian national who is seeking asylum in the United States. He is not an arriving alien, nor is he seeking admission for Respondents to justify re-detaining Petitioner.

11. Petitioner is currently in Immigration and Customs Enforcement ("ICE") custody at the Denver Contract Detention Facility in Aurora, Colorado.

12. Respondent Todd Lyons is sued in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement, and as such is the legal custodian of Petitioner.

13. Robert Hagan is the Director of the Denver Field Office of ICE's Enforcement and Removal Operations division. As such, Robert Guadian is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

14. Respondent Juan Baltazar is the Warden of the Denver Contract Detention Facility He is sued in his official capacity. In that capacity, he is the custodian of detained non-citizens, including Petitioner, housed at the Denver Contract Detention Facility.

**JURISDICTION & VENUE**

15. This action arises under the Constitution of the United States, and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq., as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub. L. No. 104 - 208, 110 Stat. 1570.

16. This Court has jurisdiction under 28 U.S.C, § 2241, Art. I, § 9, el. 2 of the Constitution of the United States (the Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, the All Writs Act, 28 U.S.C. § 1651 and the Court's equitable habeas authority.

17. Under 28 U.S.C. § 2241 and § 1391(b), (e), venue is proper in this district. Venue is proper because Petitioner is in Respondents' custody in the District of Colorado. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this district, where Petitioner is now in Respondent's custody. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States

**EXHAUSTION OF REMEDIES**

18. No statutory requirement of administrative exhaustion applies to Petitioner's challenge to the unlawfulness of her detention. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

19. DHS has taken the position that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225. Further, in a published decision, the Board of Immigration Appeals recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission." *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, regardless of his prior release and placement in standard removal proceedings, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection.

Accordingly, there are no administrative remedies that Petitioner could exhaust before seeking habeas relief.

20. Further, neither an immigration judge nor the Board of Immigration Appeals can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (B.I.A. 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations."); *see also Gonzalez v. O'Connell*, 355 F.3d 1010, 1017 (7th Cir. 2004) (noting that "the BIA has no jurisdiction to adjudicate constitutional issues").

**FACTS**

21. Petitioner is a 32-year-old citizen of India who entered the United States without inspection on or about May 26, 2022, and was subsequently released on his own recognizance.

22. Petitioner was placed into removal proceedings pursuant to 8 U.S.C. § 1229a. As relief from removal, Petitioner timely filed an application for asylum with the immigration court, that application remains pending.

23. Shortly after his entry, Petitioner was encountered and apprehended by immigration authorities and briefly detained by U.S. Immigration and Customs Enforcement (ICE). Petitioner was released from ICE custody on June 10, 2022, after posting an immigration bond. *See* Ex. B

24. When Respondents released Petitioner after his initial apprehension, they determined that Petitioner was neither a flight risk nor a danger to the community.

25. In his Notice to Appear (NTA), Respondents classified Petitioner as a noncitizen 'present in the United States who [has] not been admitted or paroled,' rather than an 'arriving alien.'

26. Petitioner filed an I-589 Application for Asylum and Withholding of Removal, which remains pending, and possesses a valid work permit until November 27, 2029. *See* Ex. C, Employment Authorization Document.

27. On August 27, 2025, the Petitioner attended a social gathering at a friend's residence. During the evening, the Petitioner consumed alcohol. At some point later that night, the Petitioner returned to his residence to retrieve personal belongings. Shortly thereafter, the Petitioner began to feel seriously ill and experienced a high fever. Concerned about his condition, friends transported him to a hospital so that he could receive medical attention. Following this incident, the Petitioner had contact with local authorities and received minor alcohol-related citations.

28. On or about August 29, 2025, officers of U.S. Immigration and Customs Enforcement ("ICE") arrested the Petitioner pursuant to an administrative warrant issued in connection with immigration proceedings.

29. He is currently detained at the Delaney Hall Detention Facility located in Denver Contract Detention Facility in Aurora, Colorado.

**PETITIONER IS BEING UNLAWFULLY DETAINED BASED UPON THE GOVERNMENT'S MISAPPLICATION OF THE STATUTORY FRAMEWORK**

30. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

31. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge (IJ). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a custody redetermination ("bond hearing") at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

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

33. Finally, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

34. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

35. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

36. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without admission or parole were not detained under § 1225 but instead under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

37. In the nearly three decades following, most people who entered without admission or parole and who were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible for release. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

38. On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy that rejected this well-established understanding of the statutory framework and abruptly reversed decades of practice.

39. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without admission or parole shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person was apprehended and applied those who have been in the United States for months, years, and even decades.

40. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are considered applicants for admission who are seeking admission and therefore subject to mandatory detention.

41. In recent months federal district courts have overwhelmingly rejected Respondents' new interpretation of the INA's detention authorities.[1]

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[1] See, e.g., *Quituizaca v. Bondi*, No. 6:25-CV-6527-EAW, 2025 WL 3264440 (W.D.N.Y. Nov. 24, 2025); *Alvarez Ortiz v. Freden*, No. 25-CV-960-LJV, 2025 WL 3085032, at *10 (W.D.N.Y. Nov. 4, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025). *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); Jose J.O.E. v. Bondi, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

42. Subsection 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]." The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without admission or parole. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

43. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

44. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

45. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who, at the time of his apprehension, had already entered the country and were living within the United States.

## CLAIMS FOR RELIEF

### COUNT 1: VIOLATION OF 8 U.S.C. § 1225(b)(2)

46. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein and does so for all additional counts.

47. 8 U.S.C. § 1225(b)(2)(A), specifically, cannot apply as it only applies to those "applicants for admission" who are "seeking admission" at the time of detention and Petitioner was neither an "applicant for admission," nor was he "seeking admission" at the time he was detained, nor is he doing so now. 8 U.S.C. § 1225(b)(2)(A).

48. As Respondents assert authority to detain Petitioner under 8 U.S.C. § 1225(b)(2)(A), and no such authority exists under that provision, he requests that he be immediately released.

**COUNT 2: VIOLATION OF 8 U.S.C. § 1226(a)**

49. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein and does so for all additional counts.

50. Section 1226 of Title 8 of the U.S. Code allows the government to detain noncitizens "pending a decision on whether the alien is to be removed from the United States," but only "[o]n a warrant issued by the Attorney General." 8 U.S.C. § 1226(a).

51. Absent such a warrant of arrest, detention is unlawful and immediate request is required.

**COUNT 3: VIOLATION OF DUE PROCESS**

52. Petitioner re-alleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein, and does so for all additional counts.

53. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

54. Petitioner has a fundamental interest in liberty and being free from official restraint.

55. The government's re-detention of Petitioner without any pre-deprivation process was unlawful.

56. The government's detention of Petitioner without a bond hearing violates his right to due process.

57. The government's re-detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to his community.

58. Petitioner has a substantial liberty interest in remaining free from physical detention. *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020) (citing *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)). Having determined that Petitioner was neither a flight risk nor a danger at the time of his initial release, the Government cannot re-detain him on without a reasoned explanation or evidence of changed circumstances.

59. The "purpose" of Petitioner's release was to allow him to remain in the United States while pursuing his applications for asylum and withholding of removal. Because Petitioner's asylum claim remains pending and he is still in removal proceedings under 8 U.S.C. § 1229a, the purpose of his conditional parole has not been served. *See Y-Z-L-H v. Bostock*, 792 F. Supp. 3d 1123, 1145 (D. Or. 2025). Consequently, any attempt to return Petitioner to physical custody before the adjudication of his asylum claim violates his due process rights without showing any justifiable cause.

60. Because of Petitioner's profound legal interest in his liberty as a noncitizen, his detention violates his due process rights. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

61. Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner prays that the Court grant the following relief:

(1) Assume jurisdiction over this matter;

(2) Order that Respondents not transfer the Petitioner outside of this District during the pendency of this Petition;

(3) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under 28 U.S.C. § 153

(4) Order the Petitioner's immediate release from custody; or

(5) Declare ICE's July 8 policy and the BIA's *Matter of Yajure Hurtado* decision unlawful;

(6) Order Respondents to immediately return all of Petitioner's seized personal property, including but not limited to any government-issued identification or immigration documents, such as a state driver's license or Employment Authorization Document (EAD) to the extent such items were seized and remain in Respondents' possession;

(7) Fashion such additional relief as is necessary and appropriate, including declaratory relief or other interim relief necessary to vindicate Petitioners' rights under U.S. and international law;

(8) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

Respectfully submitted.

Dated: March 18, 2026

/s/ Mehmet Turkoglu
Mehmet Turkoglu, Esq.
*Attorney for Petitioner*
MYT Law Firm
5775 Wayzata Blvd, Suite 700
Minneapolis, MN 55416
(612) 720-0075
mturkoglu@mytlegal.com

**VERIFICATION BY PETITIONER'S COUNSEL PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner and submit this verification on his behalf. 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: March 18, 2026

*/s/ Mehmet Y. Turkoglu*
Mehmet Y. Turkoglu, Esq.
*Attorney for Petitioner*
MYT Law Firm
5775 Wayzata Blvd, Ste 700
Minneapolis MN 55416
(612) 720-0075
mturkoglu@mytlegal.com