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UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

ROHIT SAINI [redacted] Petitioner, **v.** JUAN BALTAZAR, Warden of the ICE Denver Contract Detention Facility, ROBERT HAGAN, Denver Field Office Director for U.S. Immigration and Customs EnforcemenT; TODD LYONS, Acting Director of United States Immigration and Customs Enforcement; PAMELA BONDI, Attorney General of the United States, acting in their official capacities, Respondents.	**Case No.** PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Rohit Saini ("Petitioner") was arrested by Respondents on March 12, 2026. Respondents now claim to hold him subject to 8 U.S.C. § 1225 and that he is therefore ineligible for bond hearing. without lawful basis, probable cause, or any justification or permissible basis.
2. Petitioner is separated from his pregnant spouse and infant U.S. citizen child who he supports financially and physically.

3. Petitioner asks this Court to **order his immediate release from custody** pursuant to its authority under 28 U.S.C. § 2241(c)(3) as his arrest, and current detention, violates the Constitution and applicable statutes. *See e.g.* Singh v. Baltazar, Civil Action No. 1:26-cv-00336-CNS, 2026 U.S. Dist. LEXIS 26444, at *15 (D. Colo. Feb. 9, 2026); *Gonzalez Ramos v. Dedos*, No. 1:25-cv-00975-MLG-KRS, 2025 WL 3653928, at *1, *4-*5 (D.N.M. Dec. 17, 2025) (granting a § 2241 petition based solely on violations of Fifth Amendment due process rights related to incorrect classification under § 1225).

4. **Petitioner respectfully asks the Court to issue an order requiring Respondents to answer and show cause as to why the habeas should not be granted within 3 days**. There are no factual questions in this case. The legal issues are familiar to the Court and to the parties and have been resolved nearly unanimously, across the country, in favor of Petitioner and similarly situated persons.

5. **A bond hearing before an Immigration Judge is an inadequate remedy** both because Petitioner is unlikely to find a 'neutral' arbiter at the immigration court, *see* ¶¶ 70-80) and because the proper remedy for unlawful arrest and detention without lawful authority, absent unusual circumstances, is immediate release. Singh v. Baltazar, Civil Action No. 1:26-cv-00336-CNS, 2026 U.S. Dist. LEXIS 26444, at *14 (D. Colo. Feb. 9, 2026) Garrison G. v. Bondi, No. 26-cv-172 (JMB/DJF), 2026 U.S. Dist. LEXIS 7989, 2026 WL 115026, at *4 (D. Minn. Jan. 15, 2026); Luis N. v. Bondi, No. 26-cv-226 (JMB/DLM), 2026 U.S. Dist. LEXIS 7841, 2026 WL 115070, at *3 (D. Minn. Jan. 15, 2026); Guadarrama Ayala v. Henkey, No. 25-cv-682 (AKB), 2025 U.S. Dist. LEXIS 268011, 2025 WL 3754138, at *6 (D. Idaho Dec. 29, 2025); J.A.C.P. v. Wofford, No. 25-cv-1354 (KES/SKO) (HC), 2025 U.S. Dist. LEXIS 211735, 2025 WL 3013328, at *8 (E.D. Cal. Oct. 27, 2025); Lepe v. Andrews, 801 F. Supp. 3d 1104, 1119 (E.D. Cal. 2025); Martinez v. Hyde, 792 F. Supp. 3d 211, 223 n.23 (D. Mass. 2025);

6. Petitioner next asks the Court to order and declare that any future detention or arrest can only occur pursuant to the requirements of 8 U.S.C. 1226(a) and the Constitution of the United States.

5. Affording lengthy response time serves no purpose as Respondents will submit the same arguments they have in other cases. Respondents may advise the Court of the existence of pending appellate litigation though there is no pending case that necessarily will decide the issues here, nor is there any intervening controlling precedent. Respondents should not be allowed to continue to be 'rewarded' for their unlawful acts.

6. Petitioner is an asylum seeker who fled India. Petitioner arrived in the U.S. on June 28, 2024. He entered without visa or inspection and was encountered and apprehended by Customs and Border Protection inside the United States.

7. **Petitioner was released from custody on June 28, 2024, under § 1226(a)(B)(2)('conditional parole). Then, almost 2 years later**, On March 12, 2026, Petitioner was rearrested by ICE. Though having been arrested on domestic violence charge, he has no criminal conviction and has not violated any conditions of release from initial custody.

8. Respondents now claim Petitioner is lawfully detained under § 1225(b) and ineligible for bond hearing or release from custody.

9. Petitioner is being detained at ICE's Denver Contract Detention Facility in Aurora, Colorado.

10. District Courts across the country have, nearly unanimously, found Respondents' detention, without prior hearing and/or refusal to hold bond hearings, unlawful in identical or similar circumstances. See, e.g., Martinez v. Baltazar, Civil Action No. 26-cv-00106-PAB, 2026 U.S. Dist. LEXIS 13991, at *11 (D. Colo. Jan. 26, 2026); Marin v. Baltazar, Civil Action No. 25-cv-03697-PAB, 2025 U.S. Dist. LEXIS 261962, at *11 (D. Colo. Dec. 18, 2025); Gonzalez Ramos v. Dedos, No. 1:25-cv-00975-MLG-KRS, 2025 WL 3653928, at *1, *4-*5 (D.N.M. Dec. 17, 2025) (granting a § 2241 petition based solely on violations of Fifth Amendment due process rights related to incorrect classification under § 1225); Rivera Esperanza v. Francis, No. 25-CV-8727, 2025 U.S. Dist. LEXIS 253384, 2025 WL 3513983, at *9 n.4 (S.D.N.Y. Dec. 8, 2025) ("Having found that [the petitioner's] rights under the Fifth Amendment were violated when the Government detained him on October 21, 2025, the Court does not reach his alternative

arguments that his detention violated the Fourth Amendment or the INA."); Intriago-Sedgwick v. Noem, No. 1:25-cv-01065-MIS-LF, 2025 U.S. Dist. LEXIS 263112, at *21 (D.N.M. Dec. 19, 2025); Diallo v. Baltazar, Civil Action No. 1:25-cv-3548-SKC, 2026 U.S. Dist. LEXIS 17341, at *7 (D. Colo. Jan. 29, 2026); Puerto v. Leeper, No. 26-CV-405, 2026 U.S. Dist. LEXIS 14909, at *3 (E.D.N.Y. Jan. 27, 2026)(noting "hundreds" of Courts in agreement); Echevarria v. Bondi, No. CV-25-03252, 2025 LX 492534 (D. Ariz. Oct. 3, 2025); Doe v. Becerra, No. 2:25-cv-647-DJC-DMC, 2025 U.S. Dist. LEXIS 37929 at *8 (E.D. Cal. Mar. 3, 2025) (granting temporary restraining order); M.B. v. Noem, No. 1:26-cv-00005-DJC-AC, 2026 U.S. Dist. LEXIS 4661, at *5-8 (E.D. Cal. Jan. 9, 2026); J.S.H.M v. Wofford, No. 1:25-cv-01309-JLT-SKO, 2025 U.S. Dist. LEXIS 204422, 2025 WL 2938808; Alberto R.C. v. Murray, *No. 1:25-cv-01618-KES-SKO (HC), 2025 LX 513970 (E.D. Cal. Dec. 16, 2025);* Sharan S. v. Chestnut, No. 1:25-cv-01427-KES-SKO (HC), 2025 LX 524863 (E.D. Cal. Nov. 12, 2025);López v. Wofford, No. 1:25-cv-01226-KES-SKO (HC), 2025 LX 491132, (E.D. Cal. Oct. 17, 2025)(requiring release of asylum seeker and a pre-detention bond hearing before re-arrest); Garro Pinchi v. Noem, No. 25-cv-05632, 2025 U.S. Dist. LEXIS 127539 at *4 (N.D. Cal. July 4, 2025) (same), (N.D. Cal. July 24, 2025);

11. Civil Immigration Detention is generally only permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. Valencia Zapata v. Kaiser, No. 25-CV-07492-RFL, 2025 U.S. Dist. LEXIS 190934, 2025 WL 2741654, at *10 (N.D. Cal. Sept. 26, 2025) (citing Zadvydas v. Davis, 533 U.S. 678, 695 (2001)

12. Petitioner's arrest and detention are causing him and his family ongoing and irreparable harm. The conditions of confinement are punitive in nature and access to counsel to assist in preparation of his application for asylum is limited. Additionally, petitioner is unable to work limiting his ability to support himself and afford counsel.

13. The Constitution protects Petitioner—and every other person present in this country—from arbitrary arrest and detention and guarantees him due process of law. While the

Executive Branch has broad power over the regulation of noncitizens, those powers are still "subject to important constitutional limitations." *Zadvydas*, 533 U.S. at 695. "Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

14. Petitioner respectfully seeks a writ of habeas corpus ordering the government to release him from unlawful detention, prohibiting his re-arrest absent a finding that he is a danger to his community or a flight risk from a neutral decisionmaker.

II. JURISDICTION AND VENUE

15. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), the Fourth and Fifth Amendments to the U.S. Constitution, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).
16. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

III.PARTIES

17. Petitioner, Rohit Saini, is a 31-year-old native and citizen of India. He is presently in physical custody of Immigration and Customs Enforcement (ICE) in Aurora Colorado.
18. Respondent, Juan Baltazar, is the Warden of the ICE Denver Contract Detention Facility. He is sued in his official capacity.
19. Respondent, Robert Hagan, is the Field Office Director of the Denver Immigration and Customs Enforcement Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's Colorado Area of Responsibility, including the detention

of Petitioner. He is sued in his official capacity.

20. Respondent Todd M. Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, routinely transacts business in this District, and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Lyons is sued in his official capacity.

21. Respondent Pamela Bondi is the Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through her agents, she is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Bondi is sued in her official capacity.

IV. EXHAUSTION

22. There is no requirement to exhaust because no other forum exists in which Petitioner can raise the claims herein. There is no statutory exhaustion requirement prior to challenging the constitutionality of an arrest or detention or challenging a policy under the Administrative Procedure Act. Prudential exhaustion is not required here because it would be futile, and Petitioner will "suffer irreparable harm if unable to secure immediate judicial consideration of [their] claim." McCarthy v. Madigan, 503 U.S. 140, 147 (1992). Any further exhaustion requirements would be unreasonable.

23. EOIR has recently issued guidance to all immigration judges instructing that Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025)(any noncitizen who entered without inspection is subject to § 1225(b)) remains binding in all immigration courts despite orders from various district courts including in class litigation in the Central District of California.

V. LEGAL BACKGROUND

A. The Constitution prohibits arbitrary arrest and detention of noncitizens

24. The Constitution affords and requires due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." Hernandez v. Sessions, 872 F.3d 976, 990 (9th Cir. 2017) (quoting Zadvydas, 533 U.S. at 693). These due process rights are both substantive and procedural.

25. First, "[t]he touchstone of due process is protection of the individual against arbitrary action of government," Wolff v. McDonnell, 418 U.S. 539, 558 (1974), including "the exercise of power without any reasonable justification in the service of a legitimate government objective," Cnty. of Sacramento v. Lewis, 523 U.S. 833, 846 (1998).

26. These protections extend to noncitizens as "[i]n our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception." United States v. Salerno, 481 U.S. 739, 755 (1987). Accordingly, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." Zadvydas, 533 U.S. at 690.

27. Substantive due process requires that all forms of civil detention—including immigration detention—bear a "reasonable relation" to a non-punitive purpose. *See* Jackson v. Indiana, 406 U.S. 715, 738 (1972). The Supreme Court has recognized only two permissible non-punitive purposes for immigration detention: ensuring a noncitizen's appearance at immigration proceedings and preventing danger to the community. Zadvydas, 533 U.S. at 690–92; *see also* Demore v. Kim, 538 U.S. 510 at 519–20, 527–28, 31 (2003).

28. Secondly, the Due Process Clause's procedural protections require that even permissible forms of detention only be imposed where procedural safeguards are in place and have been followed. Lopez v. Heinauer, 332 F.3d 507, 512 (8th Cir. 2003) ("The Supreme Court has long recognized that deportable aliens are entitled to

constitutional protections of due process.")

29. Except in rare situations, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property." *Zinermon v. Burch*, 494 U.S. 113, 127 (1990). This is so even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov't*, 864 F.3d at 683 (citing *Young v. Harper*, 520 U.S. 143, 152 (1997) (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); Gagnon v. Scarpelli, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471 (1972) (same, in parole context).

30. After an initial release from custody on conditions, even a person paroled following a conviction for a criminal offense for which they may lawfully have remained incarcerated has a protected liberty interest in that conditional release. Morrissey, 408 U.S. at 482. As the Supreme Court recognized, "[t]he parolee has relied on at least an implicit promise that parole will be revoked only if he fails to live up to the parole conditions." Id. "By whatever name, the liberty is valuable and must be seen within the protection of the [Constitution]." Id.

31. This reasoning applies with equal or greater force to people released from civil immigration detention. Noncitizens residing in the United States, like Petitioner, have a protected liberty interest in their ongoing freedom from detention. *See* Zadvydas, 533 U.S. at 690. Further, "[g]iven the civil context [of immigration detention], [the] liberty interest [of noncitizens released from custody] is arguably greater than the interest of parolees." Ortega v. Bonnar, 415 F. Supp. 3d 963, 970 (N.D. Cal. 2019).

B. **Due Process and the Immigration and Nationality Act Protect Noncitizens from Summary Removal Without a Hearing.**

32. Deportation, like detention, constitutes a deprivation of liberty protected by the Due Process Clause. A noncitizen's interest in deportation proceedings "is, without question, a weighty one" because "he stands to lose the right 'to stay and live and work in this land of freedom.'" Landon v. Plasencia, 459 U.S. 21, 34 (1982) (quoting

Bridges v. Wixon, 326 U.S. 135, 154 (1945)).

33. Removal proceedings under § 1229a (INA "Section 240" proceedings) accordingly provide important substantive and procedural protections. Noncitizens placed in Section 240 proceedings following initial arrest (as was the petitioner in this case) are entitled to full hearings in immigration court before immigration authorities can remove them. 8 U.S.C. § 1229a. Congress has afforded statutory rights and protections including the right to be represented by counsel of their choice, and the right to present and confront evidence. 8 U.S.C. § 1229a(4). They are also entitled to administrative appellate review at the Board of Immigration Appeals and further judicial review in the federal Courts of Appeals. *See* 8 C.F.R. § 1003.1(b) (Board of Immigration Appeals); 8 U.S.C. § 1252(a)(5) (Courts of Appeals).

C. Detention under the Immigration & Nationality Act: 8 U.S.C. §§ 1225 & 1226

34. Detention of noncitizens who have not been ordered removed is generally governed by one of two sections of the Immigration and Nationality Act: INA §§ 235 & 236 (8 U.S.C. §§ 1225, 1226).

35. Section 1225 is titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing." The statute provides:

36. An alien present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission. Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title. 8 U.S.C. § 1225(a)(1), (b)(2)(A).

37. An applicant is seeking "admission," as that term is defined by § 1101(a)(13)(A), if he is seeking entry "lawful entry . . . after inspection" and authorization. *Tovar v. Noem*, No. 5:25-CV-1509-JKP, 2025 U.S. Dist. LEXIS 250408, at *13 (W.D. Tex. 2025)

38. An "[a]rriving alien means an applicant for admission coming or attempting to come into the United States . . . regardless of the means of transport." 8 C.F.R. § 1.2. "Admission" and "admitted" mean "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A).

39. Noncitizens subject to mandatory detention under § 1225(b) may be released only if they are "paroled 'for urgent humanitarian reasons or significant public benefit.'" Gomes v. Hyde, No. 1:25-cv-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2 (D. Mass. July 7, 2025) (quoting 8 U.S.C. § 1182(d)(5)(A)); *see also* Hyppolite v. Noem, No. 25-CV-4304 (NRM), 2025 U.S. Dist. LEXIS 197628, 2025 WL 2829511, at *7 (E.D.N.Y. Oct. 6, 2025) (describing mandatory detention under § 1225).

40. Section 1226 titled "Apprehension and detention of aliens," states:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) and pending such decision, the Attorney General—
>
> (1) may continue to detain the arrested alien; and
>
> (2) may release the alien on—

(A) bond of at least $1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or

(B) conditional parole . . . .

8 U.S.C. § 1226(a).

41.. 8 U.S.C. § 1226(a) therefore creates a "discretionary detention framework" for noncitizens arrested and detained on a warrant issued by the Attorney General. Gomes, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2. It "authorizes the [g]overnment to detain certain aliens already in the country pending the outcome of removal proceedings." Jennings, 583 U.S. at 289.

42. The arresting immigration officer has authority to make the initial custody determination. *See* Gomes, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299, at *2 (citing 8 C.F.R. § 1236.1(c)(8)).

43. The noncitizen then "ha[s] the right to request a custody redetermination (i.e., bond) hearing before an Immigration Judge." Id. (citing 8 C.F.R. § 1236.1(c)(8), (d)(1)). "Bond may be denied only if the government 'either (1) prove[s] by clear and convincing evidence that [the noncitizen] poses a danger to the community or (2) prove[s] by a preponderance of the evidence that [the noncitizen] poses a flight risk.'" Id. (alterations in original) (quoting *Hernandez-Lara v. Lyons*, 10 F.4th 19, 41 (1st Cir. 2021)).

44. Section 1226(a)(2)(B) also allows release "on an Order of Recognizance, which is a form of conditional parole." Id. (citations omitted).

45. § 1226(a) requires "an individualized bond determination before a noncitizen may be taken into custody." *A*rtiga v. Genalo, No. 25 CV 5208 (OEM), 2025 U.S. Dist. LEXIS 196847, 2025 WL 2829434, at *8 (E.D.N.Y. Oct. 5, 2025); Rodriguez v. Bostock, No. 25 CV 05240 (TMC), 2025 WL 2782499, at *16-26 (W.D. Wash. Sep.

30, 2025); Salcedo Aceros v. Kaiser, No. 25 CV 06924 (EMC), 2025 U.S. Dist. LEXIS 179594, 2025 WL 2637503, at *6-13 (N.D. Cal. Sep. 12, 2025); Belsai D.S. v. Bondi, No. 25 CV 3682, 2025 U.S. Dist. LEXIS 194262, 2025 WL 2802947, at *5 (D. Minn. Oct. 1, 2025) (collecting cases).

VI. FACTUAL ALLEGATIONS

A. DHS and EOIR seek to increase arrests and detentions

46. Since early last year, DHS has implemented a series of policies aimed at detaining noncitizens present in the United States without inspection and even those who had previously been released from custody on bond, recognizance, or on parole.

47. DHS's policies appear to be motivated by the Administration's imposition of quotas of 3,000 ICE arrests per day. In part as a result of this campaign, ICE's arrests of noncitizens with no criminal record have increased more than 800% since before January 2025.[1]

48.. The government's new campaign is also a significant shift from previous DHS practice, guided by clear judicial precedent, of only re-detaining noncitizens previously released only upon a material change in circumstances. *See e.g.* Lorenzo C.P. v. Noem, No. 1:25-cv-181, 2025 U.S. Dist. LEXIS 264574, at *7-8 (S.D. Tex. 2025) De Jesús Aguilar v. English, No. 3:25-CV-898 DRL-SJF, 2025 U.S. Dist. LEXIS 231463, at *15 (N.D. Ind. Nov. 25, 2025) Salinas v. Woosley, No. 4:25 Civ. 121, 2025 U.S. Dist. LEXIS 228539, 2025 WL 3243837, at *2 (W.D. Ky. Nov. 20, 2025; Saravia v. Sessions, 280 F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), aff'd sub

[1] José Olivares & Will Craft, *ICE Arrests of Migrants with No Criminal History Surging under Trump*, The Guardian, June 14, 2025, https://www.theguardian.com/us-news/2025/jun/14/ice- arrests-migrants-trump-figures.

nom. Saravia for A.H. v. Sessions, 905 F.3d 1137 (9th Cir. 2018) (describing prior practice);

B. BIA decision aligns Agency precedent with novel and expanded use of detention to all persons present without having been inspected; Respondents increase pretextual rearrests.

49. For decades, noncitizens who entered without inspection, were arrested in the United States and were placed into removal proceedings were generally subject to discretionary detention under 8 U.S.C. § 1226(a) (and its predecessor statute). Under that framework, they could be considered for release on bond or conditional parole by the Department of Homeland 1 Security ("DHS") and receive a bond hearing in immigration court before an IJ who could order release if found not to pose an undue flight risk or danger that justified continued detention.

50. The government upended this long-held policy and understanding of the law in 2025.

51. First, on July 8, 2025, U.S. Immigration and Customs Enforcement ("ICE") issued an interim guidance memo stating that anyone who entered without inspection was ineligible for release on bond and could not challenge their detention at a bond hearing in immigration court, regardless of how long an individual has lived in the United States.

52. As a result, DHS attorneys started arguing, and some IJs started finding, that such individuals were not eligible for bond hearings in immigration court.

53. Then, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedential decision, binding on all IJs, holding that an IJ had no authority to consider

bond requests for any person who entered the United States without inspection. *See* Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025).

54. Respondents have continued to rearrest and detain noncitizens across the country who entered the U.S. without inspection even where the noncitizen was previously released from custody under INA § 1226(a).

55. Respondents often cite to de minimis alleged violations of conditions of prior release as pretext for rearrest.

56. Numerous sources have reported that the alleged violations are not supported in Respondents' records keeping systems or that noncitizens report the alleged violations are simply not accurate. *See e.g.* Ramazan M. v. Andrews, No. 1:25-cv-01356-KES-SKO (HC), 2025 WL 3145562, at *6 (E.D. Cal. Nov. 10, 2025) (ordering pre-deprivation hearing where Respondents alleged check-in and other electronic monitoring violations, because "[w]hile respondents argue that petitioner is a flight risk, the purpose of a bond hearing is for a neutral decisionmaker to consider and evaluate such an argument to determine whether it is consistent with the facts and to ensure that noncitizens like petitioner are not deprived of their liberty without justification"), and at E.A. T.B. v. Wamsley, No. C25-1192-KKE, 2025 WL 2402130, at *4 (W.D. Wash. Aug. 19, 2025) (ordering immediate release of petitioner and finding that it does not "necessarily follow that Petitioner can be detained for [release conditions] violations without a hearing. That the Government may believe it has a valid reason to detain petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process.").

57. Judges have also found the supposed violations "negligible" or been skeptical of existence of purported violations. *See e.g.* Alas v. Albarran, 2025 U.S. Dist. LEXIS 207060 *2 FN1(ND Cal. Oct. 15, 2025).

C. Petitioner's unlawful arrest and detention

58. Petitioner is a 32-year-old citizen and native of India.

59. Petitioner entered the United States without inspection on June 28, 2024.

60. Petitioner was arrested by Customs Border Protection inside the United States on June 28 , 2024 pursuant to warrant issued under 8 U.S.C. § 1226.

61. Petitioner was not formally inspected at time of initial arrest.

62. Petitioner was released on his own recognizance under Section 1226(a)(B)(2) (conditional parole).

63. Petitioner was not paroled from custody pursuant to § 1182(d)(5).

64. No credible fear or other interview as to admissibility occurred during initial arrest.

65. On June 28, 2024, 2025, CBP issued a Notice to Appear in § 1229a Removal Proceedings

66. Petitioner thereafter filed an application for asylum with the Immigration Court.

67. Petitioner applied for temporary work authorization and his application was approved.

68. Petitioner and his wife now have a 1 year old U.S. citizen child and his wife is pregnant with another child.

69. Petitioner has complied with all requirements of his release on conditional parole under § 1226 including that he not violate any law.

70. On March 10, 2026, Petitioner was arrested in relation to a domestic dispute by local police.

71. Petitioner was released from custody by local police.

72. Petitioner has not been convicted of any offense.

73. On March 12, 2026, Petitioner was rearrested by Respondents at his home.

74. Respondents did not have a warrant.

75. Respondents did not provide a predeprivation hearing or notice of the basis for his detention.

76. Respondents did not review the circumstances relating to Petitioner's arrest and did not make a fact-based determination that Petitioner is a danger to the community or a flight risk.

77. Respondents did not make any determination as to danger or flight risk because they arrested him under their 'authority' under § 1225(b) and claim he is subject to mandatory

detention.

78. The Notice to Appear in Petitioner's removal proceedings does not allege Petitioner is an 'arriving alien,' though containing box to designate this information.

79. Petitioner remains detained in Respondents' custody at this time.

D. Bond hearing before an Immigration Judge is an inadequate remedy

80. Petitioner is unlikely to receive a fair bond hearing before an immigration judge. *See e.g.* Kyle Cheney, Judges keep ordering immigration hearings – but say the results are a sham, Politico, Mar. 6, 2016, available at https://www.politico.com/news/2026/03/06/immigrationcase-hearings-judges-00815660.[2]

81. Scores of judges have been fired, resigned, or retired in the wake of unprecedented

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[2] *See also.* Ulloa Bueno v. Soto, No. 26-CV-896, 2026 WL 509102, at *2 (D.N.J. Feb. 24, 2026) (granting immediate release after immigration judges twice failed to conduct a neutral bond hearing with the burden on DHS: "Continued detention in the face of repeated noncompliance with explicit judicial directives constitutes an ongoing deprivation of liberty without constitutionally sufficient process."); Pedroso de Oliveira v. Freden, No. 6:25-CV-6663 2025 WL 3554686, at *1 (W.D.N.Y. Dec. 11, 2025); Akhemedov v. Pittman, No. CV 2513734 (MCA), 2026 WL 323404, at *4 (D.N.J. Feb. 6, 2026) (ordering second bond hearing because at the first court-ordered hearing, the IJ did not clearly put the burden of proof on DHS as the habeas court had required); A.D. v. Oddo, 3:25-cv-460-SLH-MPK, Dkt. No. 40 (W.D.P.A. Feb. 12, 2026) (granting motion to enforce and ordering immediate release where IJ did not provide correct interpreter, then incorrectly called the petitioner "evasive" in denying bond); Said v. Noem, 3:25-cv-938-MOC (W.D.N.C, Feb. 4, 2026) (granting TRO where immigration judge's refusal to consider testimony and declarations, or let petitioner defend himself against unauthenticated assertion he had not complied with a prior condition of release, likely violated due process); Picado v. Hyde, 26-cv-65-JJM-PAS (D.R.I. Feb. 9, 2026) (granting immediate release where Picado had "two bond hearings that two separate judges have found to be deficient," including an immigration judge finding that an uncorroborated police report that Picado was speeding constituted clear and convincing evidence he was a danger to the community); Santos v. Lowe, No. 1:18-cv-1553, No. 2020 WL 4530728, at *3 (M.D. Pa. Aug. 6, 2020) (after court-ordered bond hearing for § 1226(c) prolonged detention claim, finding that "[m]echanistic reliance on factors that are common to all 1226(c) detainees will not suffice"); Luciano-Jimenez v. Doll, 543 F. Supp. 3d 69, 72 (M.D. Pa. 2021) (finding court ordered bond hearing was not individualized and granting federal court hearing)

interference with their independence and quasi-judicial function.

82. On Information and belief, Respondents have issued directives to immigration judges encouraging and, effectively ordering, that most bond requests should be denied on 'flight-risk' grounds.

83. Respondents are in possession of data showing dramatic decrease in bond hearings in the District of Colorado, and nationwide, resulting in release from custody on bond or other conditions of release beginning in 2025.

84. Respondents have issued communications in response to increased habeas litigation instructing Judges as to how to deny bond and best evade judicial scrutiny.

85. Immigration Judges often show hostility or contempt for Federal Court orders which manifests in the bond hearing.

86. Even where bond hearings are granted, they are conducted in rushed and grossly unfair settings. Noncitizens often have difficulties hearing judges or translators through video conferences from detention centers, have limited access to counsel to prepare, and hearings are conducted rapidly without full consideration of evidence or testimony.

87. Immigration Judge's often give full weight to uncorroborated ICE/CBP reports, including Form I-213, even where it contains obvious inaccuracies and even in light of growing reports of ICE and CBP fabrications in court testimony, reports, and other settings.

88. Immigration Judges often do not even permit testimony from noncitizens or their witnesses before entering a judgment.

89. Immigration Judges do not have time to review filings submitted in support of request for release on bond prior to hearings.

90. Immigration Judges are not given the time or resources to adequately conduct fair bond or merits hearings in the detained or non-detained setting.

91. Immigration Judges often cite little or no reasoning in determining that noncitizens are a flight-risk.

92. Appeals from Bond decisions take more than 6 months and are unlikely to result in reversal of a judge's finding.

93. Counsel is unaware of any bond denial being reversed by the BIA in the last 13 months, despite conversing with scores of practitioners regularly about this and related issues.

E. Petitioner is not a flight risk

94. Petitioner has fully complied with all requirements to apply for asylum protection, to appear at immigration appointments following his unlawful entry to the U.S.

95. Petitioner retained counsel, secured employment, and has not engaged in any behavior suggestive of flight-risk.

96. Petitioner has never been determined to be a flight risk or danger to the community, his detention is not related to either of the permissible justifications for civil immigration detention.

F. **Petitioner is suffering irreparable and ongoing harm as a result of unlawful detention**

84. Petitioner is being deprived of his liberty without lawful basis or permissible justification. Petitioner is unable to fully participate and assist in preparation of his case to present to the immigration court.

85. Petitioner is unable to work, though having been granted employment authorization by Respondents, and is struggling to support himself, his wife, and his infant child, and to continue to afford to pay legal fees for attorneys to assist in his case.

VII. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Substantive Due Process—Detention)

86. Petitioner repeats and realleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

87. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "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 Due Process] Clause protects." Zadvydas, 533 U.S. at 690.

88. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See* id.

89. Petitioner is not a flight risk or danger to the community. Respondents already made this determination and nothing has changed. Petitioner's arrest, without finding of guilt, does not change this analysis absent other evidence, Respondents' detention of Petitioner is therefore unjustified and unlawful. Accordingly, Petitioner is being detained in violation of the Due Process Clause of the Fifth Amendment.

90. Moreover, Petitioner's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Id.* (finding immigration detention is civil and thus ostensibly "nonpunitive in purpose and effect"). Here, the purpose of Petitioner's detention appears to be "not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons"—namely, to meet newly-imposed DHS quotas and transfer immigration court venue away from an IJ who refused to facilitate DHS's new expedited removal scheme. Demore, 538 U.S. at 532–33 (Kennedy, J., concurring).

SECOND CLAIM FOR RELIEF

Violation of the Fifth Amendment to the United States Constitution

(Procedural Due Process—Detention without precustodial hearing or notice)

91. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

92. Petitioner has a strong liberty interest under the Due Process Clause in not being re-incarcerated after prior release. *See* Young v. Harper, 520 U.S. 143, 146–47 (1997); Morrissey v. Brewer, 408 U.S. 471, 482–83 (1972); *see also* Ortega, 415 F. Supp. 3d

at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody following an IJ's bond determination); Nadia Cristina DA Rocha Rosado v. Fred Figueroa, Warden, Eloy Det. Ctr., 2025 U.S. Dist. LEXIS 156344, *35.

93. Accordingly, "[i]n the context of immigration detention, it is well-settled that due process requires adequate procedural protections to ensure that the government's asserted justification for physical confinement outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Hernandez*, 872 F.3d at 990 (cleaned up); Zinermon, 494 U.S. at 127 (Generally, "the Constitution requires some kind of a hearing before the State deprives a person of liberty or property."). In the immigration context, for such hearings to comply with due process, the government must bear the burden to demonstrate, by clear and convincing evidence, that the noncitizen poses a flight risk or danger to the community. *See* Singh v. Holder, 638 F.3d 1196, 1203 (9th Cir. 2011); *see also* Martinez v. Clark, 124 F.4th 775, 785, 786 (9th Cir. 2024).

90. Petitioner's re-detention without warrant, notice of reasons or a predetention hearing violated due process. Over a year after deciding to release Petitioner from custody, and doing so under Section 1226(a)(B)(2), Respondents have redetained Petitioner without prior notice, a hearing, and without any relevant change in circumstances.

94. Petitioner's continued detention without prior hearing constitutes an ongoing violation of petitioner's Constitutional right to under the Due Process Clause.

THIRD CLAIM FOR RELIEF

Violation of the Immigration & Nationality Act

95. Petitioner repeats and re-alleges the allegations contained in the preceding paragraphs of this Petition as if fully set forth herein.

96. Respondent's claim that Petitioner is detained pursuant to 8 U.S.C 1225(b).

97. Petitioner, who was previously arrested and released under § 1226, and then rearrested almost 2 years later, is not properly subject to § 1225(b).

98. Respondents may only detain noncitizens pursuant to specific authority under U.S. law.

99. No statutory authority exists authorizing Petitioner's arrest and continued detention.

VIII. VERIFICATION OF PETITION

100. I, Daljit Ghuman, hereby swear and affirm subject to penalty of perjury, that the contents of this petition are true and correct to the best of my knowledge and based on discussion with Petitioner and review of his electronic record of proceedings maintained by the Immigration Court (EROP).

IX.PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody under no more restrictive conditions than existed at the time immediately before his unlawful rearrest;
3. Declare that Petitioner's arrest and detention violate the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act.
4. Enjoin Respondents from detaining Petitioner under § 1226(a) unless his detention is ordered at a custody hearing before a neutral arbiter in which the government bears the burden of proving, by clear and convincing evidence, that Petitioner is a flight risk or danger to the community;
5. Order that Respondents may not arrest Petitioner while INA § 1229a proceedings are ongoing, including during any direct appeal from dismissal of proceedings by the Immigration Judge absent a material change in circumstances;
6. Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act and 28 U.S.C. § 2412; and
7. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 19th Day of March 2026,

/s/Daljit Ghuman
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GHUMAN LAW GROUP, INC.
Attorney for Petitioner