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U.S. District Court
District of Kansas
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
KANSAS CITY DIVISION

GAGANDEEP SINGH,

Petitioner,

v.

JACOB WELSH, Warden, Chase County Detention Facility; CHRISTOPHER CHALLENGER, Field Office Director, Kansas City Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; TODD M. LYONS, Acting Director, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the Department of Homeland Security; TODD BLANCHE, Acting Attorney General of the United States, *in their official capacities,*

Respondents.

Case No.: 26-3097-JWL

Expedited Hearing Requested

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Petitioner Gagandeep Singh (A[redacted] ("Petitioner"), by and through undersigned counsel, hereby challenges his unlawful detention based on a legal fiction. Petitioner is not an individual seeking admission at the border today; he is an individual who entered the United States without inspection over three years ago, has resided continuously in the United States since that time, obtained employment authorization, and has been living in the community while pursuing asylum relief. Yet, Respondents have detained him under 8 U.S.C. § 1225(b) as if he were an "arriving alien," ignoring his established residence in Sacramento, California, his active asylum

proceedings before an Immigration Court, his pending Form I-589 Application for Asylum and Withholding of Removal, and his compliance with all immigration obligations.

INTRODUCTION

1. Petitioner Gagandeep Singh, a native and citizen of India, was born on [redacted] entered the United States without inspection more than three years ago, and has resided continuously in the United States since that time. Following his entry, Petitioner was placed in removal proceedings pursuant to a Notice to Appear ("NTA") dated June 23, 2023. After issuance of the NTA, Petitioner was released from custody and permitted to remain in the United States pending further immigration proceedings.

2. Since his entry, Petitioner has established significant ties to the United States. He settled in Sacramento, residing a[redacted]. On July 23, 2023, Petitioner timely filed a Form I-589, Application for Asylum and for Withholding of Removal, online with U.S. Citizenship and Immigration Services, seeking protection based on a well-founded fear of persecution if returned to India. On July 24, 2023, Petitioner also filed a Form I-589 with the United States Immigration Court, thereby maintaining his ongoing and compliant participation in the asylum process.

3. In the years following his entry, Petitioner took every step available to build a self-sufficient and law-abiding life in the United States. USCIS approved his application for employment authorization and issued him an Employment Authorization Document ("EAD"), Class C08, reflecting his continued participation in the asylum process. Petitioner also obtained a Commercial Driver's License ("CDL") issued by the State of California, and valid through January 11, 2029. With that authorization in hand,

Petitioner secured lawful employment and supported himself through his own labor. At the time of his arrest in March 2026, Petitioner was gainfully employed, current on all immigration obligations, and held valid employment authorization—further demonstrating that he presented no risk of flight and posed no danger to the community.

4. Despite his full compliance with all legal requirements, Petitioner was detained by U.S. Immigration and Customs Enforcement ("ICE") on March 18, 2026, in Sacramento, California, while openly residing in the community with employment authorization. This arrest occurred in the interior of the United States, far from the border and well after his entry. At the time of his detention, Petitioner's removal proceedings were pending before the Sacramento Immigration Court, where his application for asylum was awaiting adjudication. Following his arrest, venue over his removal proceedings was transferred to the Kansas City Immigration Court, which has set his master calendar hearing for April 27, 2026, at 1:00 p.m.

5. The basis for this continued detention is a misapplication of the statute. Although Petitioner entered the United States without inspection over three years ago, timely filed his asylum application, established residence in the interior, obtained employment authorization, and has appeared at all required immigration proceedings, ICE is detaining him under 8 U.S.C. § 1225(b) as though he were still standing at the threshold of entry. By classifying a long-resident noncitizen as an "applicant for admission," Respondents have categorically denied him the opportunity for a bond hearing. This detention does not stem from a border encounter; it stems from the arrest of an individual living and complying with immigration law in the United States while awaiting his scheduled day in court.

6. Respondents' invocation of 8 U.S.C. § 1225(b) rests on a fundamental legal error. That statute is textually and structurally limited to noncitizens seeking admission at the border or apprehended immediately upon entry. It does not grant DHS the authority to reach into the interior of the country and retroactively impose mandatory detention on an individual who entered without inspection more than three years earlier, later obtained employment authorization, and has been residing openly in the community while pursuing asylum relief. By treating a long-time resident as an "arriving alien" standing at the threshold of entry, Respondents are relying on a legal fiction to deny Petitioner his statutory right to a bond hearing.

7. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals held that noncitizens who entered without inspection, including those residing in the interior for extended periods, are classified as "applicants for admission" and therefore subject to mandatory detention under 8 U.S.C. § 1225(b), with no right to bond hearings before Immigration Judges. As applied in practice, *Matter of Yajure Hurtado* has resulted in Immigration Judges categorically declining to exercise bond jurisdiction over individuals who entered without inspection, regardless of how long they have resided in the United States or their ties to the community, based solely on DHS's invocation of § 1225(b). Although the Central District of California initially vacated portions of this precedent in *Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM (C.D. Cal. Feb. 18, 2026), that vacation was subsequently stayed pending appeal in *Lazaro Maldonado Bautista v. United States Department of Homeland Security*, No. 26-1044 (9th Cir. March 6, 2026), leaving *Yajure Hurtado*'s broad denial of bond rights for EWI

individuals fully in effect. As a result, Petitioner is foreclosed from any meaningful administrative forum to challenge the statutory basis of his detention.

8. Respondents' reliance on *Matter of Yajure Hurtado* to deny bond hearings to long-resident EWI individuals represents a dramatic departure from the statutory framework and decades of established agency practice of instead applying 8 U.S.C. § 1226(a) to noncitizens apprehended in the interior, which allows for release on conditional parole and provides Immigration Judges with jurisdiction to consider bond requests and make individualized custody determinations.

9. Because Petitioner entered the United States without inspection over three years ago, established residence and employment authorization, and was awaiting immigration court proceedings at the time of his arrest in the interior of the United States, his detention is governed by 8 U.S.C. § 1226(a), not § 1225(b), and he is entitled to an individualized custody determination with the opportunity for release on bond or conditional parole. ICE's invocation of *Matter of Yajure Hurtado* to categorically deny bond jurisdiction violates the Immigration and Nationality Act's text and structure and the Due Process Clause of the Fifth Amendment.

10. Petitioner respectfully requests that this Court reject the overbroad application of *Matter of Yajure Hurtado* to interior arrests of long-resident EWI individuals, find his detention unlawful under the misapplication of 8 U.S.C. § 1225(b), and order his immediate release, or, in the alternative, order that Petitioner be released unless Respondents provide him with an immigration bond hearing under the proper statutory framework of 8 U.S.C. § 1226(a) within seven days.

PARTIES

11. Petitioner Gagandeep Singh is a native and citizen of India, born on [redacted] He has resided continuously in the United States for over three years since his entry without inspection. Prior to his detention, he resided at 9591 Del Seis, Sacramento, CA 95829. He timely filed a Form I-589, Application for Asylum and Withholding of Removal, seeking protection based on a well-founded fear of persecution if returned to India. He is currently detained at the Chase County Detention Facility, 301 South Walnut Street, Cottonwood Falls, KS 66845.

12. Respondents are the federal officials responsible for Petitioner's custody and the enforcement of the immigration detention laws, including: Jacob Welsh, Warden of the Chase County Detention Facility; Christopher Challenger, Kansas City Field Office Director of the Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement; Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement; Markwayne Mullin, Secretary of the Department of Homeland Security; and Todd Blanche, Acting Attorney General of the United States.

JURISDICTION

13. This Court has jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant habeas relief to individuals who are "in custody in violation of the Constitution or laws or treaties of the United States."

14. Petitioner is currently detained within this District at the Chase County Detention Facility, 301 South Walnut Street, Cottonwood Falls, KS 66845, and therefore, jurisdiction is proper in this Court. *See Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (a

habeas petition must be filed in the district of confinement and name the immediate custodian).

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. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition, and under 28 U.S.C. § 1331 because this action arises under federal law, including the INA, 8 U.S.C. § 1101, et seq. and the Administrative Procedure Act, 5 U.S.C. § 551, et seq. In sum, this Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

16. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq. and the All Writs Act, 28 U.S.C. § 1651.

VENUE

17. The District of Kansas has exercised habeas jurisdiction over claims challenging statutory detention authority, rejecting arguments that such review is precluded. As this Court recently recognized, challenges to the statutory basis of detention are properly brought through habeas corpus, and the court has jurisdiction to consider whether 8 U.S.C. § 1225(b) lawfully applies to a noncitizen who entered without inspection years earlier and is residing in the interior. See *Orellana v. Welsh*, No. 26-3019-JWL (D. Kan. March 13,

2026) (granting petition and ordering Respondents to provide bond hearing pursuant to 8 U.S.C. § 1226(a) or release petitioner).

18. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Kansas. The venue is therefore proper in this District, as the Petitioner is detained here, and the immediate custodian responsible for his detention is located within this District.

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

20. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. Habeas corpus is "perhaps the most important writ known to constitutional law . . . affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia,* 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

LEGAL FRAMEWORK

21. The Immigration and Nationality Act ("INA") prescribes three basic detention frameworks applicable to noncitizens encountered by the Department of Homeland Security during the removal process.

22. First, 8 U.S.C. § 1226 governs the detention of noncitizens placed in standard removal proceedings before an Immigration Judge ("IJ") under 8 U.S.C. § 1229a. Noncitizens detained pursuant to § 1226(a) are entitled to an individualized custody determination, including the opportunity for release on bond or conditional parole. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Mandatory detention under § 1226(c) applies only to a narrow category of individuals with specified criminal histories.

23. Second, the INA provides for mandatory detention under 8 U.S.C. § 1225(b), which applies exclusively to noncitizens seeking admission at a port of entry or apprehended at or shortly after entry, before they have been admitted or paroled into the United States.

24. Third, the INA authorizes detention under 8 U.S.C. § 1231(a) for noncitizens subject to a final order of removal, including individuals in withholding-only proceedings.

25. This case concerns the misapplication of § 1225(b) to a noncitizen who entered the United States without inspection over three years ago, obtained employment authorization, established residence in the interior, and was detained while awaiting adjudication before an Immigration Judge, such that § 1226(a) governs Petitioner's custody.

26. Petitioner entered the United States without inspection and subsequently filed a Form I-589, Application for Asylum and Withholding of Removal, seeking protection based on a well-founded fear of persecution if returned to India. ICE issued a Notice to Appear, thereby initiating removal proceedings under 8 U.S.C. § 1229a. Jurisdiction has vested with the Immigration Court.

27. On the date Petitioner was arrested, ICE issued a Notice to Appear to Petitioner, thereby initiating removal proceedings against him under 8 U.S.C. § 1229a before the Immigration Court. At the time of his arrest by ICE, Petitioner was placed into removal proceedings and had not been ordered removed.

28. Noncitizens who entered without inspection and are placed into § 1229a removal proceedings are, by statute, governed by the detention framework set forth in § 1226(a). Nothing in the INA authorizes DHS to treat such individuals as subject to mandatory detention under § 1225(b).

29. Nevertheless, ICE has recently asserted detention authority inconsistent with the statutory framework by detaining noncitizens who entered without inspection as though they were applicants for admission subject to § 1225(b), even when those individuals entered years earlier and are residing in the interior pending Immigration Court proceedings.

30. That interpretation conflicts with the text, structure, and purpose of the INA. Section 1225(b) applies only to individuals "seeking admission" and is premised on inspections conducted at the border or immediately upon entry. *See* 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has confirmed that § 1225(b)'s mandatory detention regime applies at the

Nation's borders and ports of entry, where the government determines admissibility in the first instance. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

31. By contrast, § 1226(a) applies broadly to noncitizens "pending a decision on whether the alien is to be removed from the United States," including individuals charged as inadmissible and placed into § 1229a proceedings.

32. The District of Kansas has directly addressed this issue and held that § 1226(a), not § 1225(b), governs detention where a noncitizen has been residing in the interior of the United States prior to detention. In *Orellana v. Welsh*, this Court agreed with the Fifth Circuit dissent's interpretation that the text of § 1225(b)(2)(A) applies only to noncitizens who are "seeking admission," a requirement not satisfied where the individual is already present in the United States. The Court concluded that noncitizens who have been present in the United States for an extended period at the time of their detention are not subject to mandatory detention under § 1225(b)(2)(A) and are instead eligible for release on bond under § 1226(a). The Court further explained that this interpretation is consistent with the structure and history of the statutes, preserves the longstanding distinction between arriving and present noncitizens, and avoids unnecessary redundancies.

33. This conclusion is consistent with the overwhelming weight of authority from federal courts across the country. Federal courts have repeatedly held that DHS may not detain noncitizens who entered without inspection and are awaiting Immigration Court proceedings under § 1225(b). Rather, such individuals fall squarely within § 1226(a) and are entitled to an individualized custody determination. *See, e.g.*, *Ibrahim v. Noem*, No. 25-cv-13706 (N.D. Ill. Dec. 1, 2025) (granting habeas relief for noncitizen who

entered without inspection in 2021); *Jose Ignacio Munoz Corral v. Salazar*, No. 25-cv-12167 (N.D. Ill. Nov. 19, 2025) (granting habeas relief for noncitizen who entered without inspection in 2014); *Hyppolite v. Noem*, No. 1:2025-cv-04304 (E.D.N.Y., Oct. 6, 2025) (rejecting government's attempt to classify a noncitizen who entered without inspection as subject to mandatory detention); *Rodriguez-Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025) (holding that § 1226(a), not § 1225(b), governs detention of noncitizens present in the interior); *Oliveira Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025, (D. Mass. July 7, 2025) (§ 1225(b) limited to individuals at the border or shortly after entry).

34. ICE's detention of Petitioner cannot be justified by reference to any independent ground once Petitioner entered the United States without inspection and was placed into removal proceedings under 8 U.S.C. § 1229a. At that point, and in the absence of any criminal conduct, Petitioner's custody could only be governed by 8 U.S.C. § 1226(a).

35. Section 1226(a) requires that detention be discretionary, subject to individualized review, and accompanied by the opportunity for release on bond or conditional parole.

36. ICE's refusal to provide Petitioner with a bond hearing or other individualized custody determination violates the INA, implementing regulations, and the Due Process Clause of the Fifth Amendment.

37. Because Petitioner is neither an arriving alien seeking admission nor subject to a final order of removal, his continued detention under any framework other than § 1226(a) is ultra vires.

38. Accordingly, Petitioner's detention is not authorized by statute, and habeas relief is warranted.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

39. Exhaustion of administrative remedies is not required in this case. 28 U.S.C. § 2241 contains no statutory exhaustion requirement, and courts apply only a prudential exhaustion doctrine in immigration habeas matters. See *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) (exhaustion not required where not mandated by statute). Where, as here, a petitioner challenges the statutory and constitutional authority for detention, exhaustion is not required because administrative agencies cannot adjudicate constitutional claims and lack the power to grant habeas relief.

40. Moreover, exhaustion would be futile because neither the IJ nor the Board of Immigration Appeals can review DHS's claim that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), nor can they order release where DHS invokes that statute. Administrative procedures, therefore, cannot provide the relief sought, release from unlawful detention. *See McCarthy*, 503 U.S. at 146–49 (exhaustion excused where agency remedies are inadequate or would cause irreparable injury).

41. The District of Kansas has likewise recognized that challenges to the statutory basis of detention are properly brought through habeas corpus. In *Orellana v. Welsh*, this Court held that 8 U.S.C. § 1252(g) does not jurisdictionally bar the court's consideration of such petitions, and that § 1225(b)(2)(A) applies only when a noncitizen is actively "seeking admission." Accordingly, § 1225(b) is limited to individuals at the border or

seeking admission and cannot be extended to noncitizens who, like Petitioner, entered without inspection years earlier and are residing in the interior.

42. The government's reliance on *Matter of Yajure Hurtado*, and *Matter of Q. Li,* 29 I&N Dec. 66 (BIA 2025), to justify mandatory detention under 8 U.S.C. § 1225(b) is legally unsustainable. As this Court held in *Orellana v. Welsh*, 8 U.S.C. § 1225(b)(2)(A) applies only when a noncitizen "applicant for admission" is actively "seeking admission" into the United States. Because Petitioner entered the United States without inspection years earlier and was arrested in the interior while awaiting Immigration Court proceedings, § 1225(b) does not apply to his detention, and Respondents lack statutory authority to deny him access to a bond hearing.

43. Federal courts have recognized that noncitizens who entered without inspection and who are awaiting adjudication in removal proceedings are not subject to mandatory detention under 8 U.S.C. § 1225(b). In *Castañon-Nava v. Department of Homeland Security,* No. 18-cv-3757 (N.D. Ill. Nov. 13, 2025), the district court squarely rejected DHS's position that individuals apprehended in the interior may be subjected to § 1225(b)(2) mandatory detention, holding instead that such individuals fall under the discretionary detention framework of 8 U.S.C. § 1226(a).

44. Courts across multiple jurisdictions have reached the same conclusion, holding that 8 U.S.C. § 1225(b) does not authorize mandatory detention of noncitizens who have already entered the United States and are apprehended in the interior while awaiting removal proceedings. See *Rodriguez-Vazquez v. Bostock,* No. 3:25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025); *Oliveira Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025

WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. July 24, 2025).

45. In light of the foregoing authority, further administrative proceedings cannot remedy Petitioner's unlawful and unconstitutional detention. Immigration Judges lack authority to resolve the purely statutory and constitutional questions presented here. As a practical matter, following the Board of Immigration Appeals' precedential decisions in *Matter of Q. Li* and *Matter of Yajure Hurtado*, Immigration Judges have routinely concluded that they lack jurisdiction to consider bond requests once DHS asserts detention authority under 8 U.S.C. § 1225(b), even where the noncitizen affirmatively disputes the applicability of that statute as a matter of statutory interpretation. Consequently, bond applications by individuals in Petitioner's posture are denied as a matter of course based solely on DHS's asserted detention framework, without any forum for adjudicating whether § 1225(b) lawfully applies to detention occurring in the interior of the United States after entry without inspection. Under these circumstances, administrative remedies are not merely inadequate, but functionally unavailable, rendering habeas corpus relief the only viable mechanism to challenge Petitioner's continued detention. Requiring prudential exhaustion would therefore be futile and would serve only to prolong unlawful custody and irreparable harm.

RECENT CIRCUIT COURT DECISIONS DO NOT PRECLUDE RELIEF

46. Respondents may point to recent decisions from the Fifth and Eighth Circuits that have upheld the government's broad application of § 1225(b) detention to long-resident EWI individuals. See *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir.

Feb. 6, 2026); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. 2026). However, these decisions do not preclude the relief sought here for three critical reasons.

47. First, neither the Fifth Circuit nor the Eighth Circuit's interpretation of § 1225(b) is binding precedent on this Court. As the District of Kansas has already recognized in *Orellana v. Welsh*, the statutory framework governing detention must be analyzed based on the individual's actual circumstances—not the government's post hoc characterization. *Orellana v. Welsh.*

48. Second, and more significantly, neither *Buenrostro-Mendez* nor *Avila* addressed the fundamental constitutional questions presented here: whether the indefinite detention of long-resident EWI individuals without individualized bond hearings violates substantive due process under the Fifth Amendment, and whether such detention constitutes an impermissible suspension of the writ of habeas corpus. Both decisions focused narrowly on statutory interpretation without reaching these controlling constitutional limitations on governmental power.

49. Third, both circuit decisions failed to grapple with the Supreme Court's guidance in *Jennings v. Rodriguez* that detention statutes must be read to avoid constitutional concerns, and that prolonged detention without meaningful review raises serious constitutional questions. 583 U.S. 281, 304-05 (2018). The constitutional avoidance canon requires this Court to interpret §§ 1225 and 1226 in a manner that preserves Petitioner's fundamental right to liberty and his right to meaningful judicial review of his detention.

CLAIMS FOR RELIEF

CLAIM ONE

Detention Violates the Immigration and Nationality Act (INA)

50. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

51. The government is unlawfully detaining Petitioner pursuant to 8 U.S.C. § 1225(b), despite the fact that § 1225(b) is directed to detention arising in connection with the inspection and admission process. Petitioner is not such an individual; rather, he entered the United States without inspection over three years ago and has remained continuously present in the United States for over three years. The statutory framework and decades of established agency practice make clear that individuals who entered without inspection and were not apprehended at or near the border are detained, if at all, under 8 U.S.C. § 1226, which allows for discretionary custody and provides the right to a bond hearing.

52. The government's effort to classify Petitioner as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b) rests entirely on a legal label that no longer corresponds to Petitioner's procedural posture. Petitioner entered the United States without inspection over three years ago, obtained employment authorization, established residence in the interior, and was placed into standard removal proceedings under 8 U.S.C. § 1229a. Once jurisdiction vested with the Immigration Court, Petitioner ceased to be a noncitizen "seeking admission" within the meaning of § 1225(b).

53. As the District of Kansas recently held in *Orellana v. Welsh*, the mandatory detention provision of § 1225(b)(2)(A) imposes a requirement that the alien be "seeking admission" that is not satisfied in the case of an already-present alien merely by the statutory label of "applicant for admission." The court concluded that aliens who have resided in the interior of the United States for years are not subject to mandatory detention under §

1225(b)(2)(A) and are instead eligible for release on bond under § 1226(a), which provides for individualized custody determinations.

54. Federal courts have repeatedly rejected DHS's attempt to bootstrap mandatory detention authority by continuing to label noncitizens who entered without inspection and reside in the interior as "applicants for admission," holding that 8 U.S.C. § 1226(a)—not § 1225(b)—governs detention once a noncitizen is no longer at the border or in the immediate entry context. *See Castañon-Nava v. DHS*, No. 18-cv-3757 (N.D. Ill. Nov. 13, 2025); *Rodriguez-Vazquez v. Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash. Sept. 30, 2025); *Oliveira Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025).

55. Because Petitioner is not subject to detention under § 1225(b), his continued detention without access to a custody redetermination hearing violates the INA, exceeds DHS's statutory authority, and is unlawful. Petitioner is entitled to habeas relief, including immediate release, or in the alternative, a constitutionally compliant bond hearing under 8 U.S.C. § 1226(a).

CLAIM TWO

Violation of the Due Process Clause of the Fifth Amendment

56. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.

57. Petitioner's continued detention without a bond hearing or individualized determination of flight risk or danger violates the Due Process Clause of the Fifth Amendment. The government asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), even though he entered the United States without inspection over three years

ago, is deeply embedded in his community, has a pending asylum claim, and was not apprehended at or near the border.

58. Treating Petitioner as an "applicant for admission" and subjecting him to indefinite, mandatory detention without procedural safeguards is arbitrary, punitive, and contrary to the basic guarantees of due process.

59. Freedom from bodily restraint lies at the core of the liberty protected by the Due Process Clause. *See Zadvydas v. Davis,* 533 U.S. 678, 690 (2001). Even where the government possesses authority to detain individuals for immigration purposes, such detention must bear a reasonable relation to its asserted purpose and be accompanied by adequate procedural protections. *See Demore v. Kim*, 538 U.S. 510, 531 (2003). Here, Petitioner's detention is not reasonably related to any legitimate immigration purpose because he is not a recent entrant, entered the United States without inspection over three years ago, has longstanding ties to the United States through his pending asylum proceedings and his established residence, and DHS cannot justify treating him as if he had just arrived under an expedited removal framework.

60. The District of Kansas has likewise rejected DHS's attempt to apply 8 U.S.C. § 1225(b) to noncitizens apprehended in the interior, holding that § 1225(b)(2)(A) applies only when a noncitizen is actively "seeking admission," and that detention of interior-arrested individuals are governed by 8 U.S.C. § 1226(a), which entitles them to a bond hearing or release. See *Orellana v. Welsh.*

61. Accordingly, Petitioner's continued detention violates the Fifth Amendment, and this Court should grant habeas relief and order Petitioner's immediate release, or, at a

minimum, a prompt bond hearing with the government bearing the burden to justify continued detention by clear and convincing evidence.

CLAIM THREE

Violation of the Suspension Clause of the U.S. Constitution

62. Petitioner incorporates by reference all preceding paragraphs. The Suspension Clause, U.S. Const. art. I, § 9, cl. 2, guarantees that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." Petitioner's continued detention, without access to judicial review or a mechanism to challenge the legality of custody, violates this constitutional guarantee. By asserting mandatory detention authority under 8 U.S.C. § 1225(b) and denying Petitioner any opportunity to seek release or a bond hearing, the government has effectively extinguished the core function of the writ—to test the legality of restraint on personal liberty.

63. The Supreme Court has long held that habeas relief remains available to noncitizens seeking to challenge unlawful executive detention. *See INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("At the absolute minimum, the Suspension Clause protects the writ as it existed in 1789."). The writ cannot be withdrawn where, as here, the Executive detains an individual without statutory authority and without due process safeguards. *See Boumediene v. Bush*, 553 U.S. 723, 797 (2008) (inadequate substitutes cannot replace habeas; detainees must have a meaningful opportunity to challenge detention).

64. The government's position—that Petitioner is subject to mandatory detention and categorically barred from seeking release—deprives him of any meaningful forum to

challenge the legality of his detention and effectively suspends his right to judicial review. As this Court held in *Orellana v. Welsh*, DHS's attempt to apply 8 U.S.C. § 1225(b) to noncitizens apprehended in the interior exceeds the limits of the INA. Absent habeas review, DHS's unlawful detention scheme would leave Petitioner confined without any lawful mechanism to challenge the statutory basis of his custody, in direct violation of the Constitution's guarantee of meaningful judicial review.

65. Because Petitioner's detention without access to meaningful judicial review of his custody constitutes an effective suspension of the writ of habeas corpus, this Court must exercise jurisdiction and grant relief. Petitioner respectfully requests an order directing his immediate release, or, in the alternative, a prompt individualized custody hearing at which the government must justify continued detention by clear and convincing evidence.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241;
2. Issue an order prohibiting Respondents from transferring Petitioner outside this judicial district during the pendency of these proceedings;
3. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner Gagandeep Singh from immigration detention;
4. In the alternative, order that Petitioner be provided a prompt, individualized custody hearing before a neutral adjudicator, at which the government bears the burden of establishing by clear and convincing evidence that continued detention is necessary to ensure his appearance or protect the community;

5. Enjoin Respondents from re-detaining Petitioner absent lawful statutory authority and constitutionally sufficient procedures;
6. Declare that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b) and is entitled to custody review under 8 U.S.C. § 1226(a); and
7. Grant such other and further relief as the Court deems just and proper in equity and under the circumstances.

Respectfully submitted on April 21, 2026.

COUNSEL FOR PETITIONER,

/s/ *Maya King*
Maya King
Kansas State Bar #27499
1401 Iron Street, Suite 200
North Kansas City, MO 64116
Phone: 913-717-7112
maya@kinglawgroup.com

/s/ *Harun Taskin*
Harun Taskin
**Pro Hac Vice Forthcoming*
Illinois State Bar #6342748
Kent Law Partners LLC
1701 E. Woodfield Rd., Suite 820
Schaumburg, IL 60173
Phone: (312) 724-5555
Fax: 312-724-5555
htaskin@kentlawpartners.com

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have reviewed the relevant documentation of the events described in this Petition that was reasonably available to me prior to and at the time of filing. Based on those documents and on discussions with individuals whom the Petitioner authorized to speak on his behalf, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Respectfully submitted on April 21, 2026.

COUNSEL FOR PETITIONER

/s/ *Harun Taskin*
Harun Taskin
**Pro Hac Vice Forthcoming*
Illinois State Bar #6342748
Kent Law Partners LLC
1701 E. Woodfield Rd., Ste. 820
Schaumburg, IL 60173
Phone: (312) 724-5555
Fax: 312-724-5555
htaskin@kentlawpartners.com