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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

KUSHVINDER SINGH, A# [redacted] Petitioner V. WARDEN, CALIFORNIA CITY CORRECTIONAL CENTER; Enforcement and Removal Operations **(ERO)**; U.S. Immigration and Customs Enforcement **(ICE)**; Department of Homeland Security **(DHS)**, Respondent	***Civil Action No.:***

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

I. INTRODUCTION

Petitioner Kushvinder Singh respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 challenging his ongoing civil immigration detention by the Department of Homeland Security ("DHS"). Although Petitioner has lived in the United States openly for more than three years, complied with every condition of his release, appeared for all immigration proceedings, maintained employment, and has no criminal history whatsoever, DHS abruptly detained him during a routine immigration check-in on July 9, 2026, and has continued to incarcerate him without affording him any meaningful opportunity to challenge the necessity of his detention.

This case concerns the fundamental constitutional principle that civil detention may not continue indefinitely without adequate procedural safeguards. Petitioner remains detained under INA § 236(a), despite the Government's earlier determination that he was suitable for release on parole after initiating removal proceedings. Since that time, Petitioner has complied with every requirement imposed upon him. He pursued his pending asylum application, obtained

lawful employment authorization, worked continuously in the community, and appeared whenever directed by immigration authorities. At no point has he absconded, violated the conditions of his release, or engaged in any criminal conduct.

Despite Petitioner's complete compliance, DHS revoked his liberty solely by taking him into custody during a routine reporting appointment. Since his detention, DHS has not provided Petitioner with any individualized custody hearing before an Immigration Judge to determine whether his continued detention is necessary. Instead, he remains incarcerated while his removal proceedings continue, notwithstanding the absence of any evidence that he presents either a danger to the community or a meaningful risk of flight.

Petitioner's continued detention has also caused substantial and ongoing harm. Since entering ICE custody, he has experienced significant psychological deterioration, including suicidal ideation that he has reported to detention staff on multiple occasions. He has further experienced weight loss because the detention facility has been unable to consistently accommodate his vegetarian

diet. Meanwhile, his previously scheduled individual merits hearing has been cancelled following his detention, thereby prolonging rather than advancing the underlying immigration proceedings.

The Fifth Amendment prohibits the Government from depriving an individual of physical liberty through prolonged civil detention absent constitutionally adequate procedural protections. Where, as here, a noncitizen has remained compliant with immigration proceedings for years, possesses no criminal history, was previously released by DHS itself, and continues to suffer ongoing constitutional injury without any meaningful custody determination, continued detention without an individualized hearing violates the Due Process Clause.

Accordingly, Petitioner respectfully requests that this Court issue a writ of habeas corpus ordering Respondents to immediately release him from custody. Alternatively, Petitioner requests that the Court order Respondents to provide, within seven days, an individualized custody hearing before an Immigration Judge at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary because

Petitioner presents either a danger to the community or a genuine risk of flight.

II. STATEMENT OF FACTS

Petitioner Kushvinder Singh is a native and citizen of India. He entered the United States near Lukeville, Arizona, on or about April 25, 2023, where he was encountered by immigration officials and placed into removal proceedings under INA § 240. DHS charged Petitioner as inadmissible under INA § 212(a)(6)(A)(i) for being present in the United States without being admitted or paroled.

Rather than continuing Petitioner's detention, DHS exercised its discretionary authority to release him from custody shortly after initiating removal proceedings. By releasing Petitioner, DHS necessarily determined that he did not present an unacceptable danger to the community or a significant risk of flight.

Following his release, Petitioner faithfully complied with every obligation imposed upon him. He resided openly in the United States, maintained contact with immigration

authorities, attended his immigration proceedings as required, and pursued his application for asylum and related protection from removal. At no point did Petitioner abscond, violate the conditions of his release, or otherwise fail to comply with directives issued by DHS or the Immigration Court.

Petitioner also established productive ties within his community. During 2026, he obtained employment as a gas station clerk and supplemented his income by working as a DoorDash delivery driver. Although his earnings had not yet resulted in the filing of a tax return before his detention, Petitioner remained steadily employed and supported himself lawfully while his immigration proceedings remained pending.

Petitioner's removal proceedings continue before the Adelanto Immigration Court. His application for asylum remains pending, and he had been scheduled for an Individual Hearing on January 19, 2027. However, following Petitioner's detention by ICE, that hearing was cancelled and has not yet been rescheduled. Thus, rather than facilitating the expeditious resolution of Petitioner's

immigration proceedings, his detention has delayed the adjudication of his claims for relief.

On July 9, 2026, after more than three years of full compliance with DHS's conditions of release, Petitioner voluntarily appeared for a routine ICE check-in as directed. Rather than permitting him to continue on release, ICE officers took him into custody and transferred him to the Golden State Annex in McFarland, California, where he remains detained.

Petitioner has never been convicted of any crime, has never been arrested, and has no pending criminal charges. Likewise, DHS has never alleged that Petitioner presents a danger to the community. The record likewise demonstrates that Petitioner voluntarily complied with DHS supervision for more than three years before reporting for the very appointment at which he was detained, further undermining any suggestion that he presents a meaningful risk of flight.

Since entering ICE custody, Petitioner's physical and psychological condition has significantly deteriorated. He has experienced suicidal ideation arising from the

hopelessness of his continued detention and has reported those thoughts to detention staff on two separate occasions. In addition, because he follows a vegetarian diet, Petitioner has been unable to consistently obtain nutritionally adequate meals while detained, resulting in continued weight loss since his incarceration.

Despite these circumstances, Petitioner has never received an individualized custody hearing before an Immigration Judge to determine whether his continued detention is justified. Instead, he remains incarcerated solely by virtue of DHS's unilateral custody determination, without any meaningful opportunity to challenge the necessity of his continued detention before a neutral decisionmaker.

The result is that Petitioner—an asylum applicant with no criminal history, an established record of compliance, and more than three years of successful release in the community—continues to suffer an ongoing deprivation of his liberty without the procedural safeguards required by the Fifth Amendment.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Petitioner has no available or adequate administrative remedy capable of providing the relief sought in this action. Although INA § 236(a) generally authorizes an Immigration Judge to conduct custody redetermination proceedings upon request, Petitioner has never been afforded such a hearing despite his continued detention. Moreover, no administrative process exists through which Petitioner may obtain the constitutional relief requested herein, namely, a determination that his continued detention without constitutionally adequate procedural safeguards violates the Due Process Clause of the Fifth Amendment.

In any event, exhaustion of administrative remedies under 28 U.S.C. § 2241 is prudential rather than jurisdictional. Leonardo v. Crawford, 646 F.3d 1157, 1160 (9th Cir. 2011). Federal courts routinely excuse exhaustion where administrative remedies are inadequate, futile, incapable of providing the requested relief, or where requiring exhaustion would result in irreparable injury. Laing v. Ashcroft, 370 F.3d 994, 1000–01 (9th Cir. 2004); Fraley v. U.S. Bureau of Prisons, 1 F.3d 924, 925 (9th Cir. 1993).

Those circumstances are present here. Petitioner's claims arise directly under the Fifth Amendment and challenge the constitutional adequacy of the procedures governing his continued detention. Immigration Judges possess no authority to adjudicate constitutional challenges to the immigration detention statutes or to declare DHS's detention practices unconstitutional. Consequently, further administrative proceedings cannot provide Petitioner with the relief he seeks in this action.

Moreover, requiring exhaustion would serve no practical purpose. Petitioner is presently suffering an ongoing deprivation of his physical liberty while his mental and physical health continues to deteriorate in detention. He has reported suicidal ideation to detention staff on multiple occasions and has experienced continuing weight loss during his confinement. Every additional day of unconstitutional detention constitutes an independent and irreparable injury that cannot later be remedied through post hoc administrative review.

Accordingly, to the extent exhaustion could otherwise apply, it should be excused because administrative remedies

are inadequate, futile, and incapable of preventing the ongoing constitutional violations alleged in this Petition.

IV. ARGUMENT

1) PETITIONER'S CONTINUED DETENTION WITHOUT A MEANINGFUL INDIVIDUALIZED CUSTODY DETERMINATION VIOLATES THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT.

The Fifth Amendment provides that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. Because immigration detention is civil rather than criminal in nature, its constitutionality depends upon whether the Government provides procedures sufficient to ensure that continued detention remains reasonably justified by its legitimate regulatory purposes. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Demore v. Kim, 538 U.S. 510, 523 (2003).

Although Congress has authorized DHS to detain certain noncitizens during removal proceedings, that statutory authority is constrained by the Fifth Amendment. The Supreme Court has repeatedly recognized that "[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. Consequently, civil immigration detention must remain accompanied by constitutionally adequate procedural safeguards to ensure that continued confinement is justified by legitimate governmental interests rather than administrative convenience.

This case presents precisely the type of arbitrary deprivation of liberty the Due Process Clause forbids. Petitioner has now been detained since July 9, 2026, solely because DHS elected to revoke the discretionary release it had previously granted more than three years earlier. During those three years, Petitioner lived openly within the United States, complied with every condition of his release, maintained employment, pursued his pending asylum application, and appeared whenever directed by immigration authorities. Most significantly, Petitioner voluntarily appeared for the routine ICE appointment during which he was unexpectedly taken into custody.

Nothing about Petitioner's conduct during those three years suggests that he presents either a danger to the community or a meaningful risk of flight. To the contrary,

Petitioner's history demonstrates sustained compliance with every obligation imposed by DHS and the Immigration Court. He has no criminal history, no arrests, no convictions, and no allegations of dangerous conduct. DHS itself previously concluded that Petitioner's release was appropriate, and Petitioner's conduct while living in the community fully validated that determination.

Nevertheless, DHS continues to incarcerate Petitioner without ever providing him an individualized custody hearing before a neutral decisionmaker. At no point has an Immigration Judge evaluated whether Petitioner's continued detention remains necessary, whether less restrictive alternatives would adequately protect the Government's interests, or whether DHS can justify continued confinement based upon current evidence rather than generalized assumptions regarding immigration detention.

Due process requires more.

The Supreme Court has long recognized that procedural due process is a flexible concept whose required protections depend upon the particular circumstances of the deprivation at issue. Mathews v. Eldridge, 424 U.S. 319, 334–35 (1976).

In the immigration detention context, the Ninth Circuit has likewise recognized that the Due Process Clause requires meaningful procedural protections before the Government may continue depriving an individual of physical liberty. See Martinez v. Clark, 36 F.4th 1219, 1225–26 (9th Cir. 2022) (recognizing that constitutional challenges to immigration detention procedures remain available notwithstanding Jennings v. Rodriguez).

Here, those constitutional protections have never been afforded. Petitioner has remained incarcerated solely on the basis of DHS's unilateral custody determination, without any adversarial proceeding in which the Government bears the burden of demonstrating that continued detention remains necessary. Such one-sided decision-making falls far short of the procedural protections required when the Government seeks to continue depriving an individual of his physical liberty.

The constitutional deficiency is particularly apparent given Petitioner's individual circumstances. His prolonged compliance while living in the community, absence of any criminal history, pending asylum application, voluntary appearance for ICE reporting, and worsening mental and

physical health substantially diminish any governmental justification for continued detention while simultaneously magnifying Petitioner's liberty interest. Under these circumstances, continued detention without meaningful procedural safeguards constitutes an arbitrary deprivation of liberty in violation of the Fifth Amendment.

Accordingly, the Court should hold that Petitioner's continued detention absent a constitutionally adequate individualized custody hearing violates the Due Process Clause and grant appropriate habeas relief.

2) UNDER THE BALANCING TEST ESTABLISHED IN MATHEWS v. ELDRIDGE, THE FIFTH AMENDMENT REQUIRES AN INDIVIDUALIZED CUSTODY HEARING AT WHICH DHS BEARS THE BURDEN OF JUSTIFYING PETITIONER'S CONTINUED DETENTION.

Whether existing procedures satisfy the requirements of due process is determined by balancing the factors identified in Mathews v. Eldridge, 424 U.S. 319 (1976): (1) the private interest affected by the governmental action; (2) the risk of an erroneous deprivation under the existing procedures and the probable value of additional procedural safeguards; and (3) the Government's interest, including

the administrative burdens that additional procedures would impose. Id. at 335. Each factor overwhelmingly favors Petitioner.

A. Petitioner's Interest in Freedom from Physical Restraint Is Fundamental.

The private interest at stake is Petitioner's physical liberty—the "most elemental of liberty interests." Hamdi v. Rumsfeld, 542 U.S. 507, 529 (2004). The Supreme Court has repeatedly recognized that freedom from physical restraint occupies a unique place within our constitutional system. Zadvydas, 533 U.S. at 690.

Unlike many regulatory interests, civil immigration detention results in the complete deprivation of an individual's freedom. Petitioner remains confined in a secure detention facility, separated from his employment, community, and normal daily life while his removal proceedings remain pending.

The deprivation is especially severe here. Petitioner previously lived successfully in the community for more than three years after DHS exercised its discretion to

release him. During that period, he complied with every condition of release, maintained employment, pursued his asylum application, and voluntarily appeared whenever directed by immigration authorities. His present incarceration therefore represents a dramatic loss of liberty despite years of demonstrated compliance.

Moreover, Petitioner's detention has caused substantial personal harm. Since entering ICE custody, he has experienced suicidal ideation, which he has reported to detention staff on multiple occasions. He has also experienced weight loss because the facility has been unable to consistently accommodate his vegetarian diet. These circumstances further magnify the significance of Petitioner's liberty interest and underscore the irreparable nature of his continued confinement.

B. The Current Procedures Create an Intolerably High Risk of Erroneous Deprivation of Liberty.

The second Mathews factor strongly favors additional procedural protections because the existing procedures provide no meaningful mechanism for testing whether Petitioner's continued detention remains justified.

To date, no neutral adjudicator has evaluated whether Petitioner presently poses a danger to the community or a genuine risk of flight. Instead, his continued incarceration rests solely upon DHS's unilateral custody determination.

That procedure creates a substantial risk of erroneous detention. DHS initially concluded that Petitioner could safely be released into the community after initiating removal proceedings. Petitioner's subsequent conduct confirmed the correctness of that determination. For more than three years, he complied with every reporting requirement, remained continuously available to immigration authorities, maintained employment, pursued his asylum claim, and ultimately appeared voluntarily for the ICE appointment during which he was detained.

These undisputed facts significantly undermine any contention that Petitioner's continued detention is necessary. Yet the existing procedures afford him no meaningful opportunity to require DHS to justify its decision before a neutral decisionmaker or to require the

Government to produce evidence supporting continued confinement.

An individualized custody hearing would substantially reduce the risk of erroneous detention. Such a hearing would permit an Immigration Judge to evaluate Petitioner's current circumstances, consider less restrictive alternatives to detention, assess the actual evidence concerning danger and flight risk, and determine whether continued detention remains constitutionally justified. Requiring DHS to bear the burden of proof would further ensure that continued detention rests upon evidence rather than speculation or generalized assumptions.

C. The Government's Interests Do Not Justify the Absence of Basic Procedural Safeguards.

The Government undoubtedly possesses legitimate interests in ensuring the appearance of noncitizens at future immigration proceedings and protecting the public from individuals who pose genuine dangers. Demore, 538 U.S. at 523.

Those interests, however, do not justify denying Petitioner a constitutionally adequate custody determination.

Providing an individualized custody hearing imposes only a minimal administrative burden. Immigration Judges routinely conduct custody redetermination proceedings throughout the country. Requiring DHS to present evidence supporting continued detention merely ensures that detention decisions remain tied to their legitimate regulatory purposes rather than administrative convenience.

Nor do Petitioner's individual circumstances meaningfully advance the Government's interests in continued detention. Petitioner has no criminal history, no record of violence, no history of absconding, and no history of violating DHS supervision. His voluntary compliance over more than three years—including reporting to the very ICE appointment at which he was detained—demonstrates that less restrictive alternatives have already proven effective.

Accordingly, the Government's interests can be fully protected through an individualized custody hearing while avoiding the unnecessary deprivation of Petitioner's fundamental liberty.

D. Due Process Requires an Individualized Hearing at Which DHS Bears the Burden of Proof.

Balancing the Mathews factors leaves little doubt that the present procedures are constitutionally inadequate. Petitioner's liberty interest is extraordinarily significant, the current procedures create an unacceptable risk of erroneous detention, and the Government's administrative burden in providing a meaningful custody hearing is slight.

Accordingly, due process requires an individualized custody hearing before a neutral Immigration Judge at which DHS bears the burden of demonstrating, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents either a danger to the community or a genuine risk of flight. Absent such procedures, Petitioner's continued confinement violates the Fifth Amendment.

3) PETITIONER'S CONTINUED DETENTION HAS BECOME ARBITRARY, EXCESSIVE, AND NO LONGER BEARS A REASONABLE RELATIONSHIP TO THE LEGITIMATE PURPOSES OF CIVIL IMMIGRATION DETENTION.

The Due Process Clause prohibits civil detention that is arbitrary or excessive in relation to its regulatory purpose. Zadvydas v. Davis, 533 U.S. 678, 690 (2001). Because immigration detention is civil rather than punitive, its constitutionality depends upon whether continued confinement remains reasonably related to the Government's legitimate interests in ensuring appearance at removal proceedings and protecting the community. Demore v. Kim, 538 U.S. 510, 527–28 (2003) (Kennedy, J., concurring).

Although Congress authorized detention under INA § 236(a), that statutory authority is not without constitutional limits. "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." Zadvydas, 533 U.S. at 690–91.

Those constitutional limits have been exceeded here.

Petitioner's continued detention is no longer rationally connected to either of the Government's recognized regulatory objectives.

First, the record provides no meaningful basis to conclude that Petitioner presents a risk of flight. After DHS released him into the community in 2023, Petitioner remained at liberty for more than three years without incident. During that entire period, he maintained a known residence, obtained employment, pursued his asylum application, appeared for his immigration proceedings, complied with DHS reporting requirements, and remained continuously available to immigration authorities. Most importantly, Petitioner voluntarily reported to ICE on July 9, 2026, for the routine appointment during which he was taken into custody.

Petitioner's conduct demonstrates precisely the opposite of flight risk. An individual intending to evade immigration authorities does not voluntarily appear at scheduled ICE appointments after three years of successful compliance.

Second, nothing in the record suggests that Petitioner presents any danger to the community. He has never been arrested, has never been convicted of a criminal offense, and has no history of violence or other conduct indicating that public safety requires his continued incarceration.

Indeed, DHS previously determined that Petitioner could safely remain in the community, and Petitioner's conduct fully validated that determination.

Moreover, continued detention has not advanced the efficient resolution of Petitioner's immigration proceedings. Before his detention, Petitioner's Individual Hearing had been scheduled for January 19, 2027. Following his detention, however, that hearing was cancelled and has not been rescheduled. Consequently, Petitioner's incarceration has delayed rather than facilitated the adjudication of his pending asylum application.

These circumstances further demonstrate that Petitioner's continued detention no longer serves its asserted regulatory purpose. Instead, detention has become an end in itself, untethered from any individualized determination that confinement remains necessary.

The increasingly severe consequences of Petitioner's detention reinforce this conclusion. Since entering ICE custody, Petitioner has experienced significant deterioration in both his mental and physical health. He has reported suicidal ideation to detention staff on two

separate occasions as a direct result of the hopelessness created by his continued confinement. He has also lost weight because the detention facility has been unable to consistently accommodate his vegetarian dietary needs. These ongoing harms are not merely incidental consequences of detention; they underscore the substantial liberty interests at stake and the urgent need for meaningful judicial intervention.

The Government undoubtedly possesses legitimate authority to detain individuals where detention is genuinely necessary to protect the public or ensure attendance at future proceedings. But due process does not permit continued incarceration based solely upon generalized assumptions applicable to all noncitizens in removal proceedings. The Constitution instead requires an individualized determination that detention remains reasonably necessary in light of the particular facts of the case.

Here, every objective indicator points in the opposite direction. Petitioner's prior release, years of unquestioned compliance, voluntary reporting to ICE, lack of any criminal history, pending asylum application, stable

employment, and deteriorating mental and physical condition collectively demonstrate that his continued detention has become arbitrary, excessive, and constitutionally unreasonable.

Accordingly, because Petitioner's continued confinement no longer bears a reasonable relationship to the legitimate purposes of civil immigration detention, the Court should grant the writ and order his immediate release. At a minimum, the Court should order Respondents to provide Petitioner with a prompt individualized custody hearing at which DHS bears the burden of proving, by clear and convincing evidence, that continued detention remains constitutionally justified.

V. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and enter judgment in his favor by:

1. Declaring that Petitioner's continued civil immigration detention without constitutionally adequate procedural

safeguards violates the Due Process Clause of the Fifth Amendment;

2. Issuing a writ of habeas corpus directing Respondents to immediately release Petitioner from ICE custody under appropriate conditions of supervision;

3. Alternatively, ordering Respondents to provide Petitioner, within seven (7) days of the Court's Order, an individualized custody hearing before a neutral Immigration Judge at which:

a. Respondents bear the burden of proving, by clear and convincing evidence, that Petitioner's continued detention is necessary because he presents either a danger to the community or a genuine risk of flight;

b. The Immigration Judge considers Petitioner's current circumstances, including his history of compliance with all conditions of release, lack of criminal history, employment, community ties, deteriorating mental and physical health, and any less restrictive alternatives to continued detention;

c. Respondents present individualized evidence supporting continued detention rather than relying upon generalized assumptions regarding civil immigration detention; and

d. The Immigration Judge issues an individualized decision based upon the evidence presented and applicable constitutional standards;

4. Enjoining Respondents from continuing to detain Petitioner absent constitutionally adequate procedures consistent with the Fifth Amendment;

5. Granting such other and further relief as this Court deems just, proper, and equitable.

Respectfully submitted,



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