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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SHIV VIG
[A# [redacted]],

Petitioner,

v.

CHRISTOPHER CHESTNUT, Warden, California City Correctional Center; **DAVID J VENTURELLA**, Acting Director of United States Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary of the United States Department of Homeland Security; **TODD BLANCHE**, Acting Attorney General of the United States, acting in their official capacities,

Respondents.

Case No.:

PETITION FOR WRIT OF HABEAS CORPUS – PROLONGED DETENTION

Date Filed: July 22, 2026

I. INTRODUCTION

1 Petitioner, **Shiv Vig**, urgently requests this Court to order his release from unlawful detention. He asks the Court to issue an Order to Show Cause affording no more than 5 days for response. There are no factual disputes in this case, and the law is well-settled.

2 Petitioner is an asylum seeker who fled India and entered the United States without inspection (EWI) on or about August 7, 2022. At the time of his entry, Petitioner was 17 years old. He was initially included as a derivative applicant under his father's pending affirmative asylum application before U.S. Citizenship and Immigration Services (USCIS). However, due to a lack of understanding of the process, Petitioner independently filed his own asylum application in or around February 2023, which remains pending.

3 While his asylum application has been pending, Petitioner has been issued an Employment Authorization Document (EAD). He has attended high school in the United States and has been gainfully employed, including working for Amazon, Inc., as well as independently as a disc jockey (DJ) and music mixer.

4 On January 1, 2026, Respondents arrested Petitioner inside a private establishment (Jack in the Box), where he had stopped with friends to purchase food. Petitioner was merely a passenger in the vehicle, and neither he, the driver, nor the other passengers were involved in any criminal activity. There was no probable cause to justify the stop of the vehicle.

5 Despite this, Respondents surrounded the vehicle, singled out Petitioner, and proceeded to charge him with multiple offenses before transporting him to an ICE facility. The purported evidence included certain social media images, none of which were offensive or indicative of criminal conduct by any reasonable standard.

6 All charges and allegations against Petitioner have since been dismissed, and he currently has no pending criminal charges.

7 The whole reason for detaining him was that the petitioners had an ***assumption*** of material change in circumstances and he would pose a flight risk or is a danger to the community.

8 Petitioner initially asks this Court to issue an order requiring his release from custody because the alleged crime against him has been dismissed, and his arrest without a change in circumstance violates his Constitutional rights. Additionally, Petitioner requests a declaration/injunction ordering that any detention of Petitioner, until and unless he is subject to a final order of removal, is pursuant to 8 U.S.C. 1226 and that he is not subject to mandatory detention under Section 1225.

9 Petitioner's case was transferred to Adelanto immigration Court, and DHS/ICE entered I-830 informing the court that Petitioner was released on TRO.

10 ***On May 26, 2026, the IJ informed Petitioner's lawyer that Petitioner was released, so there was no case, or the docket has been changed. The case was transferred to Sacramento Immigration Court, and Petitioner's case is still pending before the Sacramento Immigration Court. He is still detained and remains in the same custody of the Respondents. See,*** **Ex. 7.**

11 There is no hearing date as of July 22, 2026.

12 Petitioner has been required to wait several months for his individual merits hearing due to the Immigration Court's congested docket and limited scheduling availability. The hearing date remains subject to further continuance for an indefinite period in light of the significant backlog within the Executive Office for Immigration Review (EOIR).

13 Importantly, Petitioner was already included as a derivative applicant under his father's pending Form I-589 application for asylum, and he will remain eligible for such derivative status upon release. Furthermore, given his eligibility for relief and lack of any pending criminal charges, his ongoing removal proceedings are likely to be resolved favorably, including through the exercise of prosecutorial discretion or upon approval of his underlying asylum claim.

14 Petitioner previously filed a habeas corpus petition (Case No: 1:26-cv-01252-DAD-JDP) challenging his re-detention and lack of due process. That petition was denied

without prejudice. Since that denial, however, Petitioner's detention has materially changed in both duration and constitutional character.

15 Petitioner is now subject to prolonged and effectively indefinite civil immigration detention without an individualized bond hearing, in violation of the Fifth Amendment.

16 What may have once been permissible detention has now become unreasonably prolonged, arbitrary, and unconstitutional.

17 Petitioners therefore seek a) immediate release, or b) at minimum, a prompt bond hearing where the government bears the burden by clear and convincing evidence.

18 Civil Immigration Detention is generally permissible for only two reasons: to ensure a noncitizen's appearance at immigration hearings and to prevent danger to the community. But DHS did not arrest and detain Petitioner—who demonstrably poses no risk of absconding or danger to the community—for either of these reasons. Instead, as part of its broader enforcement campaign, DHS detained Petitioner to strip him of his procedural rights and seek to pressure Petitioner into giving up his claim for protection or to process his case without his ability to fully assist in preparing evidence in support of his claim.

19 Petitioner's arrest and detention have caused and continue to cause significant harm to him and his family. Petitioner's income is crucial to his ability to afford legal counsel, to support himself, and to provide support to his loved ones outside the U.S.

20 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 v. Davis*, 533 U.S. 678, 695 (2001). "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).

21 Precedent in the Ninth Circuit and this District are clear in finding that civil immigration detention, including, as relevant here, pursuant to 8 U.S.C. 1235(b) "do[es] not authorize the Attorney General to incarcerate detainees for an indefinite period" without a bond hearing and that these statutes "permit detention only while removal remains reasonably foreseeable"). *Nadarajah v. Gonzales*, 443 F.3d 1069, 1078 (9th Cir. 2006); *Banda v. McAleenan*, 385 F. Supp. 3d 1099 (W.D. Wash. 2019)(Discussing Supreme Court and Ninth Circuit Precedent and finding that "[s]ince the Supreme Court's decision in Jennings, the Ninth Circuit has expressed "grave doubts that any statute that allows for arbitrary prolonged detention without any process is constitutional or that those who founded our democracy precisely to protect against the government's arbitrary deprivation of liberty would have thought so." (quoting *Rodriguez v. Marin*, 909 F.3d 252, 256 (9th Cir. 2018)); See also *Demore v. Hyung Joon Kim*, 538 U.S. 510, 532, 123 S. Ct. 1708, 155 L. Ed. 2d 724 (2003) (Kennedy, J., concurring) ("[S]ince the Due Process Clause prohibits arbitrary deprivations of liberty, a lawful permanent resident alien . . . could be entitled to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified."); *Lopez v. Garland*, 631 F. Supp. 3d 870 (E.D. Cal. 2022)(discussing in context of 'mandatory detention' under 1226(c); *Arido-Sorro v. Garland*, No. CV-23-00842-PHX-JAT (ESW), 2024 U.S. Dist. LEXIS 181882, at *8 (D. Ariz. Sep. 5, 2024); *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *7 (W.D. Wash. May 23, 2019), report and recommendation adopted, No. 18-CV-01669-RAJ, 2019 U.S. Dist. LEXIS 196836, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019) (collecting cases discussing 1226(c)); *Gevorg v. Warden of the Golden State Annex Det. Facility*, No. 1:25-cv-00992-HBK (HC)1, 2025 U.S. Dist. LEXIS 251666, at *22 (E.D. Cal. Dec. 5, 2025) (finding particulars of case did not establish due process violation but finding that "this common-sense reasoning does not foreclose the possibility of a due process violation and bond hearing for a § 1225(b)(1) detainee where circumstances evince that detention is indefinite or for some other non-immigration purpose.").

22 Petitioner respectfully, and urgently, 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. In addition, to preserve this Court's jurisdiction, Petitioner asks for an order that the government not deport him for the duration of this proceeding.

II. JURISDICTION AND VENUE

23 As 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 ofthe 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).

24 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. Petitioner is detained at California City Correctional Center, located at 22844 Virginia Boulevard, California City, CA 93505.

III. PARTIES

25 Petitioner, **Shiv VIG**, is a 21-year-old native and citizen of **India**. He is currently in the physical custody of U.S. Immigration and Customs Enforcement (ICE) at California City Corrections Center, 22844 Virginia Blvd., California City, CA 93505.

26 Respondent **Christopher Chestnut** is the Warden of California City Corrections Center and is responsible for the day-to-day operations of the facility where Petitioner is detained. He is sued in his official capacity.

27 Respondent **David J Venturella** 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 Venturella is sued in his official capacity.

28 Respondent **Markwayne Mullin** is the Secretary of Homeland Security and has ultimate authority over DHS. In that capacity and through his agents, Respondent Mullin has broad authority over and responsibility for the operation and enforcement of the immigration laws; routinely transacts business in this District; and is legally responsible for pursuing any effort to detain and remove the Petitioner. Respondent Mullin is sued in his official capacity.

29 Respondent, **Todd Blanche**, is the [acting] Attorney General of the United States and the most senior official at the Department of Justice. In that capacity and through his agents, he 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 Blanche is sued in his official capacity.

IV. EXHAUSTION

30 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 or futile.

31 Exhaustion, before the Agency, would be futile. EOIR has recently provided guidance to all immigration judges that *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) controls and that any noncitizen who entered without inspection is ineligible for custody redetermination before an immigration judge due to lack of jurisdiction. Courts in this

District have noted that nearly all immigration judges have cited *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), finding that they lack jurisdiction to conduct a bond hearing where a noncitizen entered without inspection. *See e.g. Daley v. Andrews* (E.D.Cal. Jan. 14, 2026), No. 1:25-cv-00922-KES-CDB (HC)) 2026 LX 91108, at *13.

32 Even where Respondent does not expressly cite *Hurtado*, *supra*, Immigration Judges frequently rely on generalized assertions of flight risk as an independent basis to deny bond, often without individualized evidence demonstrating that the noncitizen is unlikely to appear for future proceedings

33 While some IJs in other immigration courts have continued to grant bond to people like Plaintiffs, consistent with its new policy, DHS also has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination. This notice not only appeals to any IJ decision granting bond but also triggers an automatic stay of the bond decision during the appeal. *See* 8 C.F.R. § 1003.19(i)(2).

34 ICE and DOJ have adopted this new and unprecedented position on bond even though federal courts have rejected this exact conclusion. For example, in the Tacoma, Washington, immigration court, IJs previously stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, reasoning such people are subject to mandatory detention under § 1225(b)(2)(A). There, in granting preliminary injunctive relief, the U.S. District Court for the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---- 2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (ordering

release where noncitizen was re-detained based on ICE's assertion of detention authority under § 1225(b)).

35 Any appeal to the BIA is futile. DHS's new policy was issued "in coordination with" DOJ. EOIR—the immigration court system—is a component agency of DOJ. Further, as noted, a recent unpublished BIA decision held that persons like the Petitioner are subject to mandatory detention as applicants for admission. Finally, in the *Rodriguez Vazquez*, litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are subject to detention under § 1225(b)(2)(A). See, e.g., Mot. to Dismiss, Rodriguez Vazquez v. Bostock, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–30.

36 Petitioner filed bond requests on two occasions, February 3, 2026, and March 2, 2026. At the initial bond hearing on February 3, 2026, the Immigration Judge ("IJ") concluded that the Immigration Court lacked jurisdiction to adjudicate the bond request. Thereafter, this Honorable Court granted Petitioner a Temporary Restraining Order ("TRO"), rendering Petitioner eligible for a bond hearing. At the subsequent hearing on March 2, 2026, the IJ denied bond, concluding that Petitioner posed a flight risk based primarily on allegations contained in Form I-213 and the charging documents submitted by Respondents. Since that hearing, however, all alleged criminal charges against Petitioner have been dismissed, and Petitioner has no criminal convictions or criminal history. These changed circumstances materially undermine the factual basis for the IJ's prior danger and flight-risk determination and eliminate the principal justification for Petitioner's continued detention.

37 Petitioner timely appealed the Immigration Judge's bond determination to the Board of Immigration Appeals ("BIA") and timely filed his appellate brief in support of that appeal. The appeal remains pending before the BIA as of July 22, 2026. Meanwhile, the factual basis underlying the IJ's bond determination has materially changed because the alleged criminal charges relied upon by the IJ have since been dismissed in their

entirety, further demonstrating that Petitioner's continued detention is no longer justified.

38 Based on these changed circumstances, a bond hearing would not provide an adequate or timely remedy, as it would likely result in further delay while Petitioner has already endured a significant period of detention. Under these circumstances, Petitioner's continued detention is no longer justified, and immediate release is warranted.

V. LEGAL BACKGROUND

A. Due Process protections apply to noncitizens

39 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.

40 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).

41 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.

42 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).

43 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.")

44 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).

45 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.*

46 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. Detention scheme under 1225(b)(1)

47 Noncitizens found inadmissible on entry may be removed through an expedited removal process. 8 U.S.C. § 1225(b).

48 However, if they indicate a fear of persecution in their home country, they may seek asylum protections under 8 U.S.C. § 1225(b)(1)(A)(ii).

49 A noncitizen indicating an intention to apply for asylum is referred for an interview to determine whether he or she has a credible fear of persecution or torture if returned to their home country (a "credible fear interview"). 8 U.S.C. § 1225(b)(1)(A)(ii).

50 Any noncitizen subject to this process "shall be detained\ pending a final determination of credible fear of persecution, and, if found not to have such a fear, until removed." 8 U.S.C. § 1225(b)(1)(B)(iii)(IV).

51 "If the asylum officer finds an applicant's asserted fear to be credible, the applicant will receive 'full consideration' of his asylum claim in a standard removal hearing." *Dep't of Homeland Sec. v. Thuraissigiam*, 140 S. Ct. 1959, 1965 (quoting 8 C.F.R. § 208.30(f); citing 8 U.S.C. § 1225(b)(1)(B)(ii)).

52 "Applicants who are found to have a credible fear may also be detained pending further consideration of their asylum applications." *Thuraissigiam*, 140 S. Ct. at 1965 (citing 8 U.S.C. § 1225(b)(1)(B)(ii)).

53 Until July 2019, noncitizens like Plaintiffs were entitled to bond hearings before an immigration judge, as noncitizens in full removal proceedings usually are. *See In re 20 X---K---,* 23 I. & N. Dec. 731, 731 (BIA 2005).

54 *Matter of M---S--*, 27 I. & N. Dec. 509 (2019), overruled the decades long practice of

affording bond hearings to noncitizens found to have credible fear and placed in removal proceedings.

55 The Attorney General interpreted 8 U.S.C. § 1225(b)(1)(B)(ii) to require the mandatory detention of asylum seekers without the opportunity for a bond hearing when they were initially placed in expedited removal proceedings but were subsequently transferred to full removal proceedings after establishing a credible fear of persecution. *See* **Matter of M-S-**, 27 I. & N. Dec. 509, 515–17 (A.G. 2019).

56 Under *Matter of M-S-,* the Attorney General concluded that noncitizens subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(B)(ii) are generally ineligible for bond hearings before an Immigration Judge. Instead, their only potential avenue for release is the discretionary exercise of parole by the Department of Homeland Security for "urgent humanitarian reasons or significant public benefit" pursuant to 8 U.S.C. § 1182(d)(5)(A). *Matter of M-S-*, 27 I. & N. Dec. 509, 516–17 (A.G. 2019).

57 Notwithstanding *Matter of M-S-*, federal courts have consistently recognized that the Fifth Amendment imposes constitutional limits on mandatory immigration detention. When detention becomes unreasonably prolonged, due process requires an individualized hearing to determine whether continued detention remains justified. *See, e.g.*, *Padilla v. United States Immigr. & Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023); *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1106 (W.D. Wash. 2019) ("Nearly all district courts that have considered the issue agree that prolonged mandatory detention pending removal proceedings, without a bond hearing, will—at some point—violate the right to due process."); *Maliwat v. Scott*, No. C25-788, 2025 U.S. Dist. LEXIS 152663, 2025 WL 2256711, at *3 (W.D. Wash. Aug. 7, 2025); *Rogers v. Ripa*, No. C21-24433, 2022 U.S. Dist. LEXIS 33899, 2022 WL 708493, at *4–5 (S.D. Fla. Jan. 22, 2022), report and recommendation adopted, 2022 U.S. Dist. LEXIS 33795, 2022 WL 574389 (S.D. Fla. Feb. 25, 2022); *Romero Romero v. Wolf*, No. C20-8031, 2021 U.S. Dist. LEXIS 14624, 2021 WL 254435, at *3 (N.D. Cal. Jan. 26, 2021); *Leke*

v. Hott, 521 F. Supp. 3d 597, 604–05 (E.D. Va. 2021); *Martinez v. Clark*, No. C18-1669, 2019 U.S. Dist. LEXIS 197895, 2019 WL 5968089, at *6 (W.D. Wash. May 23, 2019); *Thompson v. Horton*, No. C19-120, 2019 U.S. Dist. LEXIS 172158, 2019 WL 4793170, at *5 n.7 (N.D. Ala. Aug. 26, 2019).

58 Although the Ninth Circuit has not adopted a definitive test for determining when immigration detention becomes unreasonably prolonged, district courts within the Circuit have frequently applied the six-factor framework articulated in **Banda**. Under that framework, courts consider: (1) the total length of detention to date; (2) the likely duration of future detention; (3) the conditions of detention; (4) delays attributable to the detainee; (5) delays attributable to the Government; and (6) the likelihood that the removal proceedings will result in a final order of removal. *See Amhirra v. Warden, Nw. Det. Ctr.,* No. 2:25-cv-01376-TL, 2025 U.S. Dist. LEXIS 265387, at *13 (W.D. Wash. Dec. 23, 2025); *Banda*, 385 F. Supp. 3d at 1108–11.

VI. FACTUAL ALLEGATIONS

A. DHS expands the Scope of Expediated Removal

I. Petitioner's entry and duration of detention date

59 Petitioner is a 21-year-old citizen and native of India. **Ex. 2; Ex. 3; Ex. 4.**

60 On August 7, 2022, Petitioner entered the United States with his parents at the age of 17, without inspection, and was never apprehended. **Ex. 2; Ex 3.**

61 After his arrest on January 1, 2026, the Department of Homeland Security ("DHS") served Petitioner with a Notice to Appear ("NTA"), thereby initiating removal proceedings under 8 U.S.C. § 1229a. **Ex. 2.**

62 Petitioner and his parents lacked an understanding of the complex immigration laws and procedures governing asylum applications. As a result, although Petitioner was already included as a derivative beneficiary under his father's pending affirmative

asylum application, the family mistakenly believed that Petitioner was required to file a separate asylum application. Accordingly, Petitioner filed an individual Form I-589 with USCIS on February 27, 2023. **Ex. 4**.

63 On January 1, 2026, Petitioner was arrested and detained while seated as a passenger in a friend's vehicle at a Jack in the Box drive-thru with two other friends. After confirming Petitioner's identity, law enforcement officers placed him under arrest and transported him to the Sacramento Enforcement and Removal Operations ("ERO") office. **Ex. 2**.

64 On February 12, 2026, Petitioner filed a Petition for Writ of Habeas Corpus and an Emergency Motion for a Temporary Restraining Order ("TRO") challenging his re-detention.

65 On February 20, 2026, District Judge Hon. Dale A. Drozd ordered Respondents to provide Petitioner with an individualized bond hearing before an immigration judge pursuant to § 1226(a) within ten (10) days from the date of entry of the order.

66 Subsequently, Petitioner appeared for a bond hearing on March 2, 2026. At the conclusion of the hearing, the Immigration Judge ("IJ") denied bond, finding that Petitioner posed a danger to the community and presented a risk of flight. **Ex. 5**.

67 After the underlying criminal charges against Petitioner were dismissed, Petitioner, through counsel, filed an amended petition notifying the Court of the dismissal. The dismissal removed the principal basis for any claim that Petitioner posed a danger to the community and substantially undermined any assertion that he presented a flight risk warranting continued detention.

68 Thereafter, on July 13, 2026, the District Court denied Petitioner's motion to amend the petition and denied the petition for a writ of habeas corpus without prejudice.

69 Petitioner respectfully submits that the District Court's denial is inconsistent with controlling and persuasive authority recognizing that noncitizens who have been released into the interior of the United States and are later re-detained are generally subject to detention under 8 U.S.C. § 1226(a), and that prolonged or otherwise unlawful detention without adequate procedural protections violates the Due Process Clause. Accordingly, Petitioner continues to challenge the legality of his detention in these proceedings.

70 As of the filing of this Petition, Petitioner remains in custody of Respondents at the California City Correctional Center in California City, California. **Ex. 1.**

ii. Likely duration of continued detention

71 Petitioner's individual merits hearing in his removal proceedings has not been scheduled. Nevertheless, there is no guarantee that the proceedings will conclude on that date, and further continuances or additional proceedings may be required.

72 If the Immigration Judge denies Petitioner's applications for relief, Petitioner intends to timely appeal the decision to the Board of Immigration Appeals ("BIA"), as authorized by 8 C.F.R. § 1003.38.

73 The BIA's adjudication process typically requires many months, and in many cases more than one year before a final administrative decision is issued. If necessary, judicial review before the appropriate United States Court of Appeals may further extend the duration of Petitioner's removal proceedings.

74 If the Board of Immigration Appeals remands Petitioner's case to the Immigration Court, the proceedings will resume before the Immigration Judge, typically beginning with a Master Calendar Hearing and any additional proceedings necessary to adjudicate the case. Conversely, if the BIA dismisses Petitioner's appeal, Petitioner will have the opportunity to seek judicial review by filing a Petition for Review with the United States Court of Appeals for the Ninth Circuit pursuant to 8 U.S.C. § 1252. Accordingly,

Petitioner's removal proceedings are unlikely to reach a final resolution in the foreseeable future.

75 Upon the timely filing of an appeal to the Board of Immigration Appeals, the Immigration Judge's removal order does not become administratively final. Instead, the order is automatically stayed pending the BIA's adjudication of the appeal. See 8 C.F.R. § 1003.6(a) ("If a party appeals an immigration judge's decision on the merits of the case (not including bond and custody determinations) to the Board of Immigration Appeals during the appeal period, the order of removal is automatically stayed during the BIA's adjudication of the appeal."). Accordingly, Petitioner is not subject to a final order of removal while his administrative appeal remains pending.

76 Bond appeals before the BIA, on average, take six months to complete. *Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025) (Dk 55-1 contains a spreadsheet released by EOIR through FOIA); *Lopez-Campos v. Raycraft*, 797 F.Supp.3d 771, 779 (E.D.Mich., 2025).

77 On information and belief, appeals on the merits before the Board of Immigration Appeals in detained cases routinely require more than six months for adjudication and, in many recently filed cases, may take one year or longer before a final administrative decision is issued.

78 In non-detained cases, appeals before the Board of Immigration Appeals frequently remain pending for several years, with many cases taking approximately three to six years to reach final administrative resolution.

79 Federal courts have recognized the significant backlog of cases before the Board of Immigration Appeals ("BIA") and the resulting delays in adjudication. As one court observed, "[I]t is common (judicial) knowledge these days that the BIA is presently drinking from a veritable firehose of hundreds of thousands of cases on appeal." *Leal-Hernandez v. Noem*, No. 24-cv-03531, 2025 WL 2430025, at *11 (D. Md. July 2025).

80 If the Board of Immigration Appeals dismisses Petitioner's appeal, Petitioner will have a statutory right to seek judicial review by filing a Petition for Review with the United States Court of Appeals for the Ninth Circuit pursuant to 8 U.S.C. § 1252.

81 Adjudication of a Petition for Review before the Ninth Circuit typically requires many months and, in some cases, considerably longer before a final decision is issued. If the Ninth Circuit remands the case to the agency for further proceedings, Petitioner's removal proceedings will be further prolonged.

82 Absent judicial intervention, Petitioner's detention is likely to continue for many more months, if not years, while his removal proceedings, administrative appeal, and any subsequent judicial review remain pending. Courts have recognized that the completion of BIA proceedings and subsequent review in the court of appeals may take years. *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1119 (W.D. Wash. 2019) (observing that an appeal to the BIA and subsequent judicial review "may take up to two years or longer").

ii. Conditions of detention

83 Courts have recognized that the conditions at many immigration detention facilities closely resemble, and are often indistinguishable from, penal confinement. *Belqasim v. Bostock*, No. 2:25-cv-01282, 2025 U.S. Dist. LEXIS 224772, at *24 (W.D. Wash. Oct. 28, 2025).

84 Petitioner is currently detained at the California City Correctional Center under conditions that mirror penal incarceration and, in some respects, may be even more restrictive. Courts considering conditions at California City have observed that the evidence suggests the facility is "not only inherently harsh but also worse than the conditions" experienced in certain state correctional institutions. *Doe v. Chestnut*, No. 1:24-cv-00943-EPG-HC, 2025 U.S. Dist. LEXIS 228839, at *70–71 (E.D. Cal. Nov. 20, 2025) (quoting *Doe v. Becerra*, 732 F. Supp. 3d 1071, 1089 (N.D. Cal. 2024)).

iii. Removal proceedings

85 Petitioner is entitled to pursue all legitimate defenses to removal, including applications for relief and administrative and judicial review. The exercise of those statutory rights does not diminish or undermine his claim that his continued detention has become unreasonable. *Martinez v. Clark*, No. 18-cv-1669, 2019 U.S. Dist. LEXIS 197895, at *30, 2019 WL 5968089, at *10 (W.D. Wash. May 23, 2019), report and recommendation adopted, 2019 U.S. Dist. LEXIS 196836, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019).

86 The record demonstrates that virtually all delays in Petitioner's removal proceedings have resulted from the ordinary course of the administrative process, including scheduling decisions by the Immigration Court and DHS. Other than a brief continuance requested early in the proceedings to prepare and obtain supporting evidence, Petitioner has diligently pursued his case and has not engaged in dilatory tactics or sought to unnecessarily prolong the proceedings.

87 Following that brief continuance, the remaining delays were attributable to Respondents and the administrative process, including Petitioner's transfers between immigration detention facilities, scheduling and rescheduling by the Immigration Court, and the postponement of a merits hearing after the Immigration Judge was unavailable to proceed as scheduled. Petitioner has consistently appeared for hearings and complied with all court deadlines.

iv. Likelihood that removal proceedings will result in final order of removal

88 Petitioner has timely submitted applications and supporting evidence establishing a prima facie case for asylum, withholding of removal, and any other forms of relief for which he is eligible under the Immigration and Nationality Act. Those claims are substantial, non-frivolous, and remain pending before the Immigration Court.

89 Courts have recognized that where a noncitizen presents a good-faith challenge to removal, continued mandatory detention becomes increasingly unreasonable as detention lengthens. As one court explained, "where a noncitizen has asserted a good faith challenge to removal, the categorical nature of the detention will become increasingly unreasonable." *Scott v. Wamsley*, No. 2:25-cv-1819, 2025 U.S. Dist. LEXIS 253288, at *27 (W.D. Wash. Dec. 8, 2025) (quoting *Martinez v. Clark*, No. C18-1669-RAJ-MAT, 2019 U.S. Dist. LEXIS 197895, at *29–30, 2019 WL 5968089, at *10 (W.D. Wash. May 23, 2019), report and recommendation adopted, 2019 U.S. Dist. LEXIS 196836, 2019 WL 5962685 (W.D. Wash. Nov. 13, 2019)).

90 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.

91 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]

92 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

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

F. Supp. 3d 1168, 1197 (N.D. Cal. 2017), aff'd sub nom. *Saravia for A.H. v. Sessions,* 905 F.3d 1137 (9th Cir. 2018) (describing prior practice);

B. Petitioner's unlawful arrest and detention

93 Petitioner is a 21-year-old citizen and native of **India**.

94 Petitioner entered the United States without inspection on Aug 7, 2022, and he was not detained or booked by the DHS ICE. **Ex. 3; Ex. 4.**

95 Petitioner was not formally inspected or admitted into the United States at the time of entry or during initial arrest. **Ex. 2; Ex. 3.**

96 Petitioner filed an asylum application with USCIS in or around Feb 2023. **Ex. 4.**

97 Petitioner is also listed as a derivative applicant under his father (Deepak Kumar Vig)'s pending asylum case before the USCIS.

98 Petitioner obtained his Employment Authorization Document and started working full time. **Ex. 4.**

99 Petitioner was waiting for his immigration interview date.

100 On January 1, 2026, Respondents unlawfully detained Petitioner while he was with friends at a drive-thru of a restaurant and subsequently included false allegations in Form I-213, relying on unreliable and unsubstantiated evidence. **Ex. 3.**

101 All alleged charges against Petitioner have been fully dismissed, and Petitioner does not have any criminal record. **Ex. 6.**

102 Respondents did not provide an opportunity for a hearing or consider whether changed circumstances justified his rearrest as a flight risk or danger.

103 He was detained in the open field when he was with his friends in a restaurant's

premises. **Ex. 3.**

104 After he was booked in Jan 2026, Respondents issued an NTA alleging that Petitioner entered the country without inspection, permission, or proper entry document and was therefore inadmissible. **Ex. 2.**

105 The NTA, though containing a field for such designation, does not indicate that Petitioner is an 'arriving alien'. ***Id.***

106 Instead, the NTA indicates Petitioner is a person present in the United States who has not been admitted or paroled. ***Id.***

107 Petitioner remains detained in Respondents' custody to this date. **Ex. 1.**

108 Petitioner filed bond requests on two occasions, both of which were denied based on alleged criminal charges reflected in the record and/or jurisdiction ground. However, those charges have since been fully dismissed, and the Government can no longer rely on the same assertions to justify continued detention. **Ex. 6.**

109 Although the Form I-830 (Notice to EOIR: Alien Address) filed by the Department of Homeland Security reflects that Petitioner has been released from ICE custody (**Ex. 7**), Petitioner remains physically confined at the same ICE detention facility where he was initially detained. Thus, the information reflected on Form I-830 is inaccurate and does not represent Petitioner's actual custodial status.

110 Petitioner's hearing has not yet been scheduled.

111 Petitioner has fully complied with all requirements to apply for asylum protection, to appear at immigration appointments when requested, and to comply with the laws of the United States following his unlawful entry to the U.S.

112 Petitioner has no criminal history anymore. His alleged charges have been dismissed. **Ex. 6.**

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

113 Petitioner is being deprived of his liberty without lawful basis or permissible justification. The government previously released him, finding that he was not a danger or flight risk.

114 Petitioner is unable to work with legal counsel to prepare his case, incarcerated in penal institution-like conditions, unable to work to support himself or his family.

VII. CLAIMS FOR RELIEF

First Cause of Action: Violation of the Fifth Amendment Due Process Clause

115 Petitioner re-alleges and incorporates by reference all preceding paragraphs of this Petition as though fully set forth herein.

116 The Due Process Clause of the Fifth Amendment prohibits the Government from depriving any "person" of liberty without due process of law. U.S. Const. amend. V. 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 v. Davis*, 533 U.S. 678, 690 (2001).

117 Because immigration detention constitutes a significant deprivation of physical liberty, the Fifth Amendment requires that such detention bear a reasonable relation to its lawful purpose and be accompanied by constitutionally adequate procedural protections. As detention becomes prolonged, continued confinement without adequate process becomes increasingly difficult to justify under the Due Process Clause.

118 Petitioner's detention, which has already exceeded almost seven months, is unquestionably prolonged. Because his removal proceedings remain ongoing and may

be followed by administrative and judicial review, there is no reasonably foreseeable end to his confinement. Without meaningful judicial intervention, Petitioner's detention risks becoming effectively indefinite.

119 To justify Petitioner's continued prolonged detention, the Due Process Clause requires the Government to provide an individualized hearing before a neutral decisionmaker at which it bears the burden of proving, by clear and convincing evidence, that Petitioner's continued detention is necessary because he poses either a flight risk or a danger to the community, and that no less restrictive alternative to detention would reasonably mitigate those concerns.

120 For all of these reasons, Petitioner's continued prolonged detention without constitutionally adequate procedural protections violates the Due Process Clause of the Fifth Amendment. Courts within this Circuit have consistently recognized that prolonged immigration detention without sufficient process is constitutionally suspect and warrants habeas relief. See *Maksim v. Warden, Golden State Annex*, No. 1:25-cv-00955-SKO (HC), 2025 U.S. Dist. LEXIS 200588, at *8–10, 2025 WL 2879328, at *3 (E.D. Cal. Oct. 9, 2025) (collecting cases).

121 Moreover, Petitioner's continued detention has become punitive because it no longer bears a reasonable relationship to any legitimate governmental purpose. Petitioner has complied with his immigration obligations, has pursued non-frivolous claims for relief, and has not been shown to present a danger to the community or an unmanageable risk of flight. Under these circumstances, his prolonged incarceration cannot reasonably be justified as necessary to facilitate removal or protect the public. Instead, continued confinement imposes punishment on Petitioner for exercising his statutory right to pursue immigration relief, at substantial expense to the Government and U.S. taxpayers.

Second Claim For Relief

Violation of the Administrative Procedure Act

122 Petitioner repeats and re-alleges each allegation contained in the preceding paragraphs of this Petition as though fully set forth herein.

123 The Administrative Procedure Act ("APA") requires a reviewing court to set aside agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A), or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right," id. § 706(2)(C).

124 Respondents have adopted and applied a policy or practice treating all noncitizens who entered the United States without inspection as subject to mandatory detention, regardless of their present custody posture, procedural history, or eligibility for release under 8 U.S.C. § 1226(a). That policy exceeds Respondents' statutory authority, is contrary to governing law, and is arbitrary and capricious in violation of 5 U.S.C. § 706(2)(A) and (C).

125 Respondents applied that unlawful policy directly to Petitioner by arresting and detaining him without an individualized determination that the governing statute authorized mandatory detention. The resulting custody determination constitutes final agency action for which Petitioner has no adequate alternative remedy and should be set aside under 5 U.S.C. § 706(2).

Third Claim of Relief

Violation of the Immigration & Nationality Act

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

127 Respondent's claim Petitioner is detained pursuant to § 1235(b).

128 § 1235(b) does not authorize detention where a noncitizen is not an 'arriving alien' or applicant for admission or when a noncitizen has been paroled into the United States.

129 Respondents do not claim any other source of lawful authority to detain Petitioner.

130 Petitioner's arrest and detention pursuant § 1235(b) is unlawful.

VIII. 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 to the conditions of release that existed prior to his 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 re-detaining Petitioner unless his re-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 re-detain Petitioner while Section 240 proceedings are ongoing, including during any direct appeal from dismissal of proceedings by the IJ absent a 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 22nd day of July 2026.

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